

July 28, 1999

**Before the
Federal Communications Commission
Washington, D.C. 20554**

)

In the Matter of) MM Docket No. 99-25

)

Creation of a Low) RM-9208

Power Radio Service) RM-9242

)

Comments of *The Michigan Music Is World Class Campaign*

Filed on Behalf of Itself & The Below Listed Concerned Organizations And Individuals

Responding to the January 28, 1999 release of a Notice of Proposed Rule-making in FCC Docket No. MM 99-25 (a.k.a. RM-9208 and RM-9242), the *Michigan Music is World Class Campaign* hereby submits formal written comments on the Commission=s Proposed Rule to establish a Low Power FM Radio Service (LPFM).

TERMINOLOGY & CLARIFICATIONS:

The *AMichigan Music is World Class Campaign*≡ is also identified as the *AMichigan Music Campaign*.≡

The Michigan Music Campaign uses interchangeably the terms *ALow Power FM or LPFM*≡ and *Acommunity radio*.≡ Our use of *ALPFM*≡ is equivalent to what other parties refer to as *ALPRS*.≡

References to paragraph numbers refer to the NPRM itself. Section references refer to these comments.

These comments are a result of debate and discussion about the nature and state of radio at roughly 125 weekly public meetings held by the Michigan Music Campaign over the last two and a half years. I, Tom Ness, have consolidated the opinions expressed during those meetings in a comprehensive fashion, via these comments. Participants at our weekly meetings have had one month to examine and correct my efforts. As well, a rough draft of these comments has been available on line since May 22, 1999.

I note the somewhat remarkable fact that the hundreds of participants in these discussions are in agreement over most all of the essential points outlined in these comments! However, where there remains debate, such as with the question of *Acommercial/non-commercial*≡ status for LPFM, these comments reflect multiple views.

It should be noted that most of these participants have not debated the finer points of these comments, i.e. *Aspectral masks*,≡ *Adistance separation vs. contour-overlap*≡ license allocation methods, etc. Such opinions expressed herein represent discussions held following Jan. 28, 1999, the release of the NPRM.

As well, we suspect that not some of the signatories on this document might not agree with every single one of the 30,000 words contained herein. However, all signatories agree with the general points expressed in our Summary & Guiding Principles.

We would like to clarify the relationship between this set of comments and those filed by my wife, Susan Trescott-Ness (no relation to Commissioner Susan Ness) in MM Docket 99-25. On the one hand, after investing so much time and energy into this issue, it is critical to us to address comprehensively each and every single point raised in the Jan. 28, 1999 NPRM. Thus, we have compiled here what we informally refer to as our Along≅ comments.

However, our other critical goal is to demonstrate the enormous and virtually unanimous support for LPFM that exists in our area. But it is obviously unfeasible to ask elected officials, community leaders, business owners and members of the general public to find the time to read and consider 30,000 words, especially when much of the information is arcane and technical. Thus, out of our Along≅ comments we distilled the essential philosophy, and produced our Ashort≅ version, which is approximately 340 words. Since the F.C.C. frowns on a single party submitting two sets of comments, our Ashort≅ version has been submitted in my wife=s name. We hope the agency agrees with our solution to the problem of both comprehensively addressing the fine points of the NPRM via our Along≅ comments while at the same time making it possible to demonstrate the overwhelming support for LPFM via our Ashort≅ version. They are simply two versions of the same document.

Finally, we would like to point out that the Michigan Music Campaign has gone further than perhaps any other party in this proceeding in making an effort to solicit and measure public opinion about community radio; through the gathering of well over 4,000 constituent letters, along with 25 city council resolutions. While the great majority of these people remain unfamiliar with many of the technical details of the NPRM, the general desires of those many thousands of citizens are contained within these comments. We are confident that these comments represent the will of the millions of Michigan citizens already represented via our city council resolutions, constituent letters, etc.

SUMMARY & GUIDING PRINCIPLES:

1. The fundamental issue with which the F.C.C. must concern itself in the matter of LPFM is that of determining and fulfilling public interest and demand. It is impossible to square with the public interest (which Chairman Kennard accurately refers to as the agency's bedrock principle) a ruling which fails to abide by the virtually unanimous public support and demand for LPFM. We point out the absolute failure of the broadcast industry to demonstrate opposition to LPFM from the public itself, and that a significant part of the broadcast industry itself favors LPFM.

2. The F.C.C. is obligated to institute a system of license allocation which does not discriminate on the basis of economic standing; where the rights of one are not held superior to the rights of others and; where those rights are not held in perpetuity such that the rights of others are never recognized. Such a system does not presently exist.

3. We express concern for:

A. Fundamental issues of fairness regarding the allocation of public resources.

B. The twin threats to democracy of

I. Media consolidation and

ii. Rising economic thresholds barring access to public resources;

C. Cultural homogenization;

D. Local economic issues.

4. We compare the stewardship of our airwaves to that of other public forms of property, and demonstrate that in contrast to other public property where use and participation is encouraged, access to the public airwaves is held in elitist reserve, despite the historic role played by amateurs and hobbyists in the

development of radio technology.

5. We demonstrate the undue influence of the broadcast industry over the regulatory process, and the close relationship between the agency and industry over the years.

6. We counter our opponents' claims that existing stations already serve the myriad needs of our communities, and debunk their shallow conclusions about existing diversity.

7. We regret the reckless endangerment of our democracy by those who advocate lifting further or even altogether media ownership limits. And we criticize the nonsensical and argumentative ploy of suggesting that less owners are ever likely to produce greater diversity.

8. We draw attention to Canadian and Mexican provisions which allow LPFM broadcasting, apparently without undue harm.

9. We use an actual broadcast industry study of why existing commercial stations continue to lose listeners every year as a foundation to demonstrate the need and demand for LPFM. And we point out the likelihood that the conclusions drawn by industry itself in this study strongly suggest that N.A.B. opposition to LPFM is really due to fear of competition.

10. In terms of communication options available to the public, there are no serious alternatives that stand equivalent to LPFM. And even the existence of such alternatives fails to justify the granting of broadcast licenses to some but not others, including, as is apparently the case, when such discrimination is based essentially on economic standing.

11. We express our many deep concerns over IBOC terrestrial digital itself, and how it is being foisted on the American public with barely a pretense of public debate. We demonstrate an almost complete lack of public demand for digital broadcasting of any kind, and contrast this void with the powerful demand for LPFM.

12. We clarify that the need and demand for LPFM did not begin with the Telecom Act of 1996 nor was inspired by the ensuing consolidation, but only that need and demand increased as a result of these events.

13. We suggest a more meaningful definition for the term Spectrum efficiency,≡ based on the quality and level of public interest, necessity and convenience; that Aefficiency≡ should refer to how *well* the spectrum is used, rather than simply how *much*.

14. The *Michigan Music Campaign* demonstrates long-term, consistent interest and activity in this issue. As well, we demonstrate significant interest in LPFM existing throughout our city. Moreover, we demonstrate the overwhelming and essentially unanimous public support for LPFM.

15. Locally-based independent musicians and composers are effectively shut out of commercial broadcast outlets, thus making it impossible for them to Adisplay their wares≡ in the music industry marketplace. This has a detrimental ripple effect on entire local music economies. It also carries negative cultural ramifications.

16. We should not continue to allow transnational media empires to act as our nation=s cultural gatekeepers, with such comprehensive authority not over what we hear on our airwaves, but also what we read, see and hear elsewhere.

17. We demonstrate a consistent effort to work with existing license holders towards resolution of our concerns B and a consistent record of being rebuffed, with some substantial hostility, by the broadcast industry. We demonstrate their efforts to restrain debate about this subject over the public airwaves. We demonstrate a consistent pattern on the part of licensed broadcasters of arrogance, hypocrisy and callousness towards both their listeners and their public interest responsibilities.

18. We demonstrate how unlicensed broadcasters have filled the public-interest gap left by the licensed

broadcasters in our area.

19. We offer an alternative perspective on who are the real pirates in the broadcast industry. We examine the historic respect our society gives to acts and practitioners of non-violent civil disobedience. We demand full amnesty for unlicensed broadcasters, given their demonstration of a surplus of civic responsibility and character. And we cast doubt about the character deficiencies of some licensed broadcasters, in light of their words and deeds.

20. We provide an estimate of the number and range of LPFM stations an area such as Metro Detroit requires and deserves. We show a need for ethnic, political, cultural, religious and other types of LPFM stations. We demonstrate the gross inability of the NPRM as it stands to deliver those new licenses. We suggest several ways to increase the potential number of licenses available. However, under no circumstances should the insufficiency of the existing NPRM be used as an excuse to abandon LPFM altogether. We draw attention to the spectrum-inefficient nature of IBOC, which only further hampers LPFM.

21. We oppose LP-1000 stations except in rural areas, in order to provide for a maximum number of new opportunities in urban areas. We support primary service status for LP-1000 and LP-100. We support the creation of a micro-radio service, which we believe would be especially critical for the urban underclass. We agree with the agency's view that this service can and should serve a wide range of purposes; can and should allow access to the public airwaves to a wide range of Americans; can and should serve a myriad of unique and diverse interests; can and should provide service to currently unserved communities.

22. We criticize the underlying assumptions behind the broadcast industry's stated concerns about potential interference. And we support the agency's belief that small amounts of potential 2nd and 3rd channel interference . . . are counter-balanced by substantial service gains.≡ And we show how it is disingenuous for the industry to protest the possible elimination of second channel interference protections for LPFM stations when the industry favors such practices for their own existing translator stations.

23. We urge the agency to explore tighter bandwidth allocations, and higher standards for receiver manufacturers in terms of selectivity.

24. We favor one-to-an-owner license allocation with strict local ownership requirements, and demonstrate why local ownership is critical. We oppose allocating LPFM licenses to any existing licensed broadcasters or owners of other major media. We explain why the directions given by Congress in the past can not apply to an entirely new and unique form of service. We express regret over the failure of Congress to consult with the American public while the broadcast industry was busy drafting the >96 Telecom Act, and suggest this reality weakens their basis of authority in this regard.

25. We express our desire for LPFM to present primarily local programming.

26. We examine the issue of commercial versus non-commercial status for LPFM stations and find merit in both sides of the debate. However, we find that certain parties, such as local advertisers, could only be served by a commercial service.

27. We support the agency=s position on the public interest programming requirements. We support a substantial minimum number hours of weekly broadcast time for LPFM stations, and the Atwo-thirds≅ rule.

28. We support the creation of local volunteer non-governmental broadcast authorities to assist with license allocation and dispute resolution, as a way of reducing the F.C.C.=s regulatory burdens with LPFM stations.

29. We support license renewal for LPFM stations only when there is no competition for the license. We support relatively short license terms and construction permits.

30. With some regret, we support mandatory electronic filing of license applications, due to the overwhelming demand expected. We reject the use of auctions to settle competing applications. We suggest some criteria for

settling competing applications.

31. We challenge the principle of renewal expectancy for both low power and full power stations.

32. We support calls for anti-trust investigations into the broadcast industry. We find merit in the suggestion of denying broadcast licenses of any kind to corporations.

33. We point to quotes from Commissioners Kennard and Tristani which eloquently express the critical need for LPFM. We explain why we do not share the concerns of Commissioners Ness and Powell in regards to interference, and restate our disillusionment with IBOC.

34. We express disagreement with virtually the entire statement of Commissioner Furchtgott-Roth. We note several subtle signals which we find greatly alarming; especially his tendency to twist the very benefits of LPFM into arguments against its implementation, but also his consistent arguments in favor of *limiting* rather than *fostering* communication between Americans. We express serious concern about his elitist attitude that the general public is simply not up to broadcasting, and his apparent disdain for the public's own expression of the public interest. We share his concerns that the agency has acted as an advocate instead of a neutral decision-maker -- however, this has happened with IBOC, not LPFM!

35. We conclude with supporting evidence: local articles; evidence of constituent letters; letters from Congress, the Michigan Senate and Michigan House of Representatives; resolutions introduced into the Michigan Senate and House; resolutions from city councils; an Open Letter to the radio stations of Michigan; letters and resolutions from supporting community groups; and additional information about the Michigan Music is World Class Campaign.

**Increased competition could
over-saturate the market.**

Profits could deteriorate.≡

From a letter from the Michigan Association of Broadcasters
stating their reasons for opposing LPFM community radio.

**We're the landlords of the public airwaves,
the broadcasters are the tenants.**

**Yet they pay us no rent,
they decide who plays what 24 hours a day,
and they laugh all the way to the bank.**

**Isn't it time we made a national political issue
out of this enormous anomaly that we own the public airwaves
but don't control anything?≡**

Ralph Nader, Green Party Presidential nomination acceptance speech, August 1996

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1. STATEMENT OF INTEREST

The *Michigan Music is World Class Campaign* is a loose coalition of musicians, music lovers, and music-related business owners working to further appreciation for Michigan=s musical contributions and boost our local music economy. We are primarily based in the Metropolitan Detroit area. By choice we are not a formal membership organization: we have neither dues nor elected officers, we are not recognized as a legal entity, nor are we formally organized in any way. We are best described as a *very* large group of friends who trade email and meet once a week for conversation and debate and to discuss and coordinate strategies for achieving our mutual goals. The Campaign is loosely coordinated by the publishers and staff of *Jam Rag Magazine*, which is dedicated to the Metro-Detroit independent, creative music community.

For creative musicians, the airwaves are our market place, where we go to display our wares. However, the media titans, with their ever-tightening grip on our nation=s radio stations, have created a situation where it is virtually impossible for an independent Detroit artist to gain airplay on a commercial, licensed Detroit radio station (with only slightly better chances on public radio). This reality has had a devastating effect on Detroit=s entire local music economy. We do not believe that musicians have an individual right to demand airplay, especially with stations that are privately owned. But we do believe that Detroit musicians as a whole have a legitimate right to a fair, significant and sufficient share of the airwaves we partly own. If market pressures make it impossible for existing licensed stations to even consider our music for airplay, then it becomes the duty of the Federal Communications Commission to explore and adopt a new service that makes it possible for us to launch our own stations.

In a broader sense, we are interested in and concerned about:

* The F.C.C. serving the public interest by acceding to the virtually unanimous public demand for LPFM;

* Instituting a system of license allocation which does not discriminate on the basis of economic standing; where the rights of one are not held superior to the rights of others and; where those rights are not held in perpetuity such that the rights of others are never recognized;

* Fundamental issues of fairness regarding the allocation and stewardship of public resources;

* The twin threats to democracy of media consolidation and rising economic thresholds barring access to public resources;

* Cultural homogenization and how existing licensed stations are failing to serve the myriad needs of our communities, as demonstrated by the industry's consistent loss of listeners over recent decades;

* The excessive influence of the broadcast industry over the regulatory process, and the close relationship between the agency and industry over the years;

* Apparent character deficiencies in existing licensed broadcasters who demonstrate callous disregard for their listeners and their public interest responsibilities;

* The rush to implement a form of terrestrial digital broadcasting technology which seems to

work poorly, is spectrum-wasteful, provides few if any apparent benefits, and might preclude the creation of an LPFM service.

We believe that this Notice of Proposed Rule-Making in the F.C.C.'s MM Docket 99-25, although not perfect, shows great promise in most of these areas.

2. INTRODUCTION

The Michigan Music Campaign was launched in the Fall of 1996, with a series of weekly public meetings to discuss what could be done about our rapidly-diminishing local music economy. Local music clubs were closing or discontinuing live, original music due to a lack of attendance. Meanwhile, sales of locally-produced CDs and tapes were virtually non-existent. Local creative, independent musicians found it impossible to support themselves by their art and craft. Some left Detroit, some gave up music entirely; virtually all pursued other employment as a primary source of income, virtually all struggled to survive.

This did not just affect musicians, but local music clubs, local CD/tape retailers, local studios, PA/lighting companies, management, booking and promotion companies, etc., not to mention local music publishers such as myself B the whole local music economy suffered.

And, of course, it continues to suffer.

Meanwhile, major label artists (including some from Detroit) continue to sell out arenas and post healthy CD sales. Clearly there is a vast market for music in Detroit, yet it is not open to locally-based creative, independent artists.

Our weekly town meetings began with an open discussion about what was wrong. Over and over, no matter which way the conversation turned, the subject kept coming back to radio and the complete lack of airplay for

local, independent music. In fact, one of the ironic jokes expressed was that the only commercial radio station in Detroit that would play any Detroit music at all was in Windsor! (A Canadian station, ACIMX, has a Sunday-night half-hour local music show.) There was virtually unanimous agreement at our meetings: without airplay few people were ever going to buy our CDs or attend our performances.

It is probably correct to assert that if Berry Gordy had launched his independent Detroit music label, Motown Records, today -- he would go out of business because none of his artists (Diana Ross & the Supremes, the Jackson Five, Stevie Wonder, Marvin Gaye, Smokey Robinson, etc.) would be able to get airplay! Where is the evidence that the music being created in Detroit today is in any way inferior to that created by yesterday's superstars? How can it be possible in a city of 4.3 million people that no one possesses the talent and creativity so prevalent here in past decades? What is the basis for such an assertion? When explaining the disappearance of local music from the local airwaves over the last three decades, it seems far more accurate to point to monumental and distinct changes in the music industry and economic globalization in general than a sudden evaporation of artistic skill and inspiration.

Our music, no matter how good, simply is simply never even considered when play-lists are written -- our bands might as well be write-in candidates for president. The major labels have an almost complete lock on Detroit radio stations and their program/music directors. (There are always, of course, rare exceptions to the rule.) The program director of WPLT-FM The Planet told us that the station holds a weekly meeting to reevaluate their 30-song play-list. Most weeks one new song is added, some weeks two, some weeks none at all. So in competition with the media titans for that one slot; local bands are like the junior league football team going up against the Dallas Cowboys and the Pittsburgh Steelers -- not in terms of musical quality but in regards to the degree of influence held over the station. Our music, no matter how good, is never seriously considered.

In fact, we've yet to talk to a program or music director who disputes the dominance of major labels over the writing of their play-lists. According to *The Independent Musicians Survival Guide* (Disc Makers),

Major labels routinely wine and dine radio professionals, offer them perks such as backstage passes at stadium shows, and deliver star appearances for the station. Stations that play local bands usually limit airplay to dead time (such as Sunday nights) and specialty shows. Major labels often coerce the bands they've signed to perform for no pay at special promotional concerts for stations. Although no one can state precisely to what degree payola exists in the industry, a number of such scandals have surfaced in recent years. And legal payola has emerged, as radio consultants and promoters exploit legal loopholes. The revolving door between the broadcast and music industries is also a factor. How can independent local musicians compete with this kind of influence!?

This same program director also told us that when filling that one slot they are looking for the band who was on the late-night national talk show the week before -- because if they are going to play something new they much prefer it be something everyone has already heard many times before!

There are dozens of professional, independent labels in Detroit but none get significant airplay. A perfect example is Yikes! Records, which could not get airplay for Verve Pipe, a band on one of their compilation CDs. A year later, when Verve Pipe was on the RCA label, all of a sudden the band was played on every rock station in town. The package was the same -- all that changed is who made the delivery.

For creative musicians, the airwaves are our market place, where we go to display our wares. We can't sell our music unless people have a chance to hear it. Like everyone else, we deserve a place for our wares in the established public forum. This is like a backyard farmer taking their bushel of beans down to the local market and being told there is no place for them because the factory farms and mega-grocers have taken up the whole market place to themselves.

At stake in this era of cultural homogenization is the same 30 songs being played on every station from coast to coast -- are Detroit's (and every other region's) unique characteristics and contributions. Over time, as fewer and fewer musicians are able to contribute to our area's unique cultural stew, something of intrinsic

value is lost. In a myriad of ways impossible to catalog here, our collective identity is diminished.

It is worth noting that of the five major music labels, the companies that largely dictate the sum of music heard on our nation=s airwaves, only one is even based in this country.

The name of our campaign, *Michigan Music is World Class*, was chosen to directly confront what we found to be a general perception among the public that the music coming from their own home town was inferior, or second-class. (Indeed, this collective loss of self-esteem is probably itself part of that diminished collective identity mentioned above.) We wanted to remind the public that every major label superstar is a home-town band somewhere! The falseness of this perception of inferiority is borne out by the example of so many hugely successful Detroit and Michigan artists, both past and present. However, today, if an artist does not enjoy the patronage of one of the five major music conglomerates, they are pre-judged as inferior by most of the general public (when they are even able to rise above total invisibility). Thus, success B or even the ability to support themselves and their families B is substantially compromised.

The major labels recognize and sign some very good artists B but most of the best are overlooked. It might be worth comparing the music industry (and especially the broadcast industry!) to the world of sports in regards to the effort spent in pursuit of new talent. While baseball, football and basketball scouts scour virtually every high school and college sports program in hopes of finding the next superstar, in comparison the music industry plays a more passive role, making little effort to seek out talent.

Meanwhile, the staffs of Detroit=s radio stations (with a couple of notable exceptions) are totally disconnected from the local music community, and are essentially oblivious to music being produced from within their own broadcast range. Many DJs would be hard-pressed to name more than a dozen of the thousands of active local bands. Far worse, they see the mountain of CDs and tapes which local bands send them as a burden and something to be disposed of as quickly as possible (almost always unheard), rather than as a potential treasure trove. Our local stations seem quite happy to let the major labels tell them what is good

-- and what to play.

Likewise, while some artists have found mutually agreeable relationships with the major labels B many have found otherwise. A recent article by the noted producer Steve Albini (of Nirvana fame), gave as a typical illustration a reasonably successful band selling a quarter-million units of their debut release, making \$710,000 dollars for the label, \$90,000 for their producers, \$51,000 for their manager, \$52,500 for their studio, etc. -- with the musicians themselves ending up in the hole!

Even when the financial arrangements are more favorable to the musician, many simply prefer their independence. However with the complete domination over the public airwaves held by the major labels, that independence carries an enormous price -- the virtual guarantee they will never gain the airplay so vital to their success.

However, even if the major labels were more adept at discovering new sounds and even if more musicians found a relationship with these labels to be mutually beneficial -- we would still reject with prejudice the vision of these mega-corporations becoming the cultural gatekeepers for our city or nation -- or planet! It is simply intolerable for a handful of transnational media titans to have such complete control over the valves of our nation=s cultural pipeline.

Our first collective action was a ARadio Rally≅ on Dec. 28, 1996, where 300 of us toured three local stations, to thank them for the small amount of local music they=d played in the past, and to ask them to consider adding a short local music show to their weekly schedule. One station met with us, and promised to meet our quite reasonable request. Another, *The Planet*, refused to meet us, but sent a letter suggesting their intention to also launch a local music show.

However after two months neither promise was fulfilled, so we held a *AThanks Doug & Alex≅* party to help remind them of the commitments they had made. Neither Doug nor Alex showed up for their party -- nor did

we really expect them! - but the publicity led to the creation of Detroit=s only local music show, >*Motor City Riffs*,= on WRIF-FM, which has aired on and off, beginning mid-March 1997.

Perhaps another six rallies took place over the next eight months, with a token increase of late-night local music programming on some stations and others taking an increasingly hostile stance.

Over the summer of 1997, a debate arose about local content laws, such as one finds in Canada, France, South Africa, etc. We began to investigate the possibility of a Canadian-style content law, although many opposed the idea on several different grounds. We also began following the movement to re-legalize low power community FM radio, as part of our general research into possibly starting our own stations.

On Sept. 13-14, 1997 we presented >*Airplay-A-Palooza*= a series of events to draw attention to our cause; a three-station rally on Sept. 13, and a town meeting and concert on Sept. 14. To encourage the attendance of elected officials, we coordinated a letter-writing campaign of over 600 letters to our state representatives and senators. In all, one senator and two representatives attended, with a third sending an aide. At the meeting, we discussed content legislation and micro-radio.

To top off the weekend, we made public our *Open Letter to the Radio Stations of Michigan*, with the names of hundreds of local businesses and individuals, urging the stations to play more local music. Virtually every music instrument retailer in Detroit signed this letter, along with most of the CD/record stores, studios, clubs, etc. Eventually several dozen Michigan elected officials signed as well.

In the Fall of 1997, our interest in community radio came to a focus when the Federal Communications Commission abruptly stepped up its enforcement efforts, shutting down dozens of unlicensed stations around the country. In our area, an unlicensed station, *Free Living Radio* of Howell Michigan, was playing local independent music 24 hours per day at a time the best commercial stations were devoting approximately 0.25% of their airtime to our music. We simply could not afford to lose this resource! We held our first public protest against the FCC raids on Jan. 23, 1998 at the Detroit Federal Building, asking *AWhy can=t the*

public use the public airwaves!?!≡

In the Spring of 1998 and again in the Fall, we sponsored *Radio Rendezvous*, an event where local musicians and the staffs of local radio stations could meet face to face. About 15-18 Michigan radio stations agreed to attend, but almost entirely high school and college stations. Several commercial stations committed to attending but failed to show.

We continued to educate ourselves as to the nature of radio, its history and what it is likely to be like in the future. We found it necessary to familiarize ourselves with an intimidating array of technological and scientific concepts, the inner-workings of the legislative branch of government, our nation's arcane judicial system and broadcast law in specific, the considerably daunting administrative procedures and structure at the F.C.C. itself (once described as a Alabyrinth in which one is invited to get lost!≡), and to gain a basic awareness of economics, and an anthropological understanding of culture.

Over these years we made continuous efforts to meet with local program/music directors, only to be ignored. As they continued to show a callous disregard for their public interest responsibilities, we grew ever more intent on ensuring that radio stations fulfill those responsibilities, given the enormous profits they enjoy via their license to monopolize the public airwaves.

We continue to both beg and demand local commercial stations to play local music. But we have learned the hard way that if we are ever going to attain significant and sufficient local airplay, *we are going to have to launch our own stations*. However, research into that subject was less than promising & we learned that we could easily spend \$100 thousand dollars or more and still not end up with a license!

We continued to gather names, especially of elected officials, on our *Open Letter* during this time. In March 1998, we received a call from Congressman David Bonior's office, who had taken an interest in our campaign by way of our *Open Letter*. Congressman Bonior invited us in for a meeting, and spoke at our second protest against raids on community radio stations, in May 1998.

It was around this time when we first learned about the Skinner and Leggett petitions. The great majority of us favor a system of regulation for the public airwaves B if not for the F.C.C. who will stop Westinghouse from building a gazillion-watt transmitter and an antenna to the moon! B but we also cannot abide regulations which proscribe at least 99% of the public from using the public airwaves, especially when such regulations are suspect in terms of the 14th Amendment, and perhaps the 1st as well. We were delighted to learn the F.C.C. was considering a fresh look at those regulations.

During this time we launched a massive campaign to support Florida community broadcaster Arthur ALonnie≡ Kobres, who faced an effective life sentence for broadcasting without a license. We generated hundreds of letters, and were pleased when the judge noted the huge support for Kobres when delivering his Aslap-on-the-wrist≡ (compared to what Kobres faced) sentence.

We continued peaceful protests against the F.C.C. (We found your Farmington, Michigan staff to be friendly but nervous!). We also initiated contact with *Steal This Radio* and others, and investigated the possibility of filing our own litigation against the F.C.C.

From May through July we attempted to learn as much as possible about the petitions, RM-9242 and RM-9208. By the end of the Reply-Comment period, we had produced several hundred comments filed in favor of community radio.

It should be noted that the parent companies of the stations who continue to refuse to play our music filed comments opposing community radio. With this in mind, debate arose over possible anti-trust concerns, since parties were apparently conspiring to keep us out of the marketplace. It=s not enough that they won=t play our music on their stations but they are also actively working to keep us from launching our own! This suspicion of potential anti-trust concerns seemed to be confirmed on October 7, 1998 when the Michigan Association of Broadcasters wrote in a letter to State Senator Ken DeBeaussaert that *Increased competition could over-saturate the market. Profits could decline* Ξ≡ The M.A.B. was writing to discourage

the Senator from introducing a resolution in support of community radio.

The Senator's interest in community radio was a result of another mass letter-writing campaign conducted by the *Michigan Music Campaign*, beginning in September 1998 and ending in December. In all, we tracked approximately 3,200 letters to Michigan's state representatives, state senators, and Governor Engler (copies of these letters are available for inspection). Constituents in about 80 of Michigan's 100 state house districts wrote letters, demonstrating wide geographical support in our state for community radio. The letters asked for resolutions encouraging the F.C.C. to rule favorably on RM-9208 and RM-9242. A resolution was introduced in the State House by Rep. John Freeman just days before breaking for election, and received 38 co-sponsors. Two days after the election, Senator DeBeaussaert introduced his version, which gained six co-sponsors. Both resolutions died in committee before a hearing could be scheduled. However, with verbal commitments we had received, it was clear we had at least 70 votes in the State House had there been enough time to bring the resolution to the floor for a vote.

Meanwhile, our Governor ignored about 900 constituent letters and his office refused to meet with us, or even to call. The Governor's web site indicates he receives about 350 letters each day, so we found quite curious his disinterest in essentially three complete days of mail! However, even a personal visit in February 1999 failed to produce an explanation.

A critical lesson was learned during this letter-writing campaign -- our volunteers reported essentially 99% approval for community radio on the street. We found it difficult to find anyone opposed -- in fact, we found it hard to find people unwilling to write a support letter. As a veteran of grassroots social activism, I can say that one of the best ways to lose friends is to ask them to write a letter to their senator. While people will often sign petitions, it takes considerably more effort to actually look up the name of their senator and representative and write a whole letter, address an envelope and put it in the mail. We were asking for three -- and almost no one turned us down!

On a related note, over the last year I've talked with easily a thousand people about community radio, and found exactly one opposed -- however, his father had a stake in a local commercial station. However, even this person changed his mind by the end of our conversation. So when we asked our volunteers what kind of response we were getting on the letters, I was not at all surprised to learn they reported very nearly universal support.

Our letter-writing campaigns rank among the most comprehensive of efforts to gauge public opinion about community radio. We think it is relevant to ask opponents of community radio to produce at least some evidence demonstrating public opposition to community radio. And we believe the total lack of such evidence effectively and totally undermines our opponents' positions.

As our letter-writing campaign came to an end and we learned about the F.C.C.'s imminent plans to release MM Docket 99-25, we embarked on a new four-part strategy: working at the Congressional level, the state level, the city and county level and also with community groups. We assisted Congressman Bonior with a support letter eventually signed by 28 members of Congress, Senator DeBeaussaert with a letter signed by 13 Michigan senators, and freshman State Representative Paul Gielegem with a letter signed by 15 members of the State House.

We also began efforts to get our state-level resolutions re-introduced. However the political calculus had changed dramatically following the election. Term-limits were mostly responsible for over half the state house being replaced (including Rep. Freeman), with Republicans taking control. Republicans maintained control of the State Senate. Because of contentious partisan politics, we were told repeatedly that a resolution introduced by a Democrat could never make it out of committee. However, and despite considerable efforts on the part of the M.A.B., on April 20, 1999 Democratic Representative Gloria Schermesser introduced HR67, which again gained 38 co-sponsors. And on May 4, Republican Senator Mat Dunaskiss introduced SR53, gaining 12 co-sponsors. Both resolutions are presently in committee.

We launched yet another letter-writing campaign in support of these resolutions, and produced yet another

800 or so letters (copies available for inspection).

At that point, early May, we began working on the substantial task of drafting these comments. With the public comment period on MM Docket 99-25 now having been extended to Sept. 1, we felt we had plenty of time to worry about our resolutions in the Michigan Legislature.

On June 1, with a draft version of our comments completed, we again contacted Lansing about our resolutions -- and were shocked to learn that both chambers planned a summer recess beginning on June 10. And they would not resume session until Sept. 14, 1999 -- after the end of the public comment period!

After gathering 4,000 constituent letters for these resolutions, among other things, we were crushed. However, by June 3 we had regrouped and begun a campaign for discharge motions in both chambers. By June 4, Rep. Buzz Thomas agreed to make this motion for us in the House. On June 7, we spent the whole day in Lansing, visiting every single senator=s and representative=s office, urging their support for HR67 and SR53 at this critical juncture.

During the week of June 7-10, the office of Rep. Mary Middaugh, chair of the Energy & Technology Committee, where HR67 had been referred, apparently engaged at least twice in a deliberate policy to confuse and deceive our volunteers, who called to ask her to not oppose the discharge motions.

On June 10, Sen. V.C. Smith and Rep. Schermesser made our motions to discharge SR53 and HR67. In the Senate, the discharge motion was defeated along party lines, 16-20. The House version was similarly defeated, although a recorded vote was not taken.

Many have told us that they would have supported community radio, and in fact, we can probably demonstrate support of a majority of the Michigan Senate and House based on letters, co-sponsorship of the resolutions, signatures on our comments, etc. However, many told us they voted against the discharge motions simply out of respect for the established committee process.≡

To put this in perspective, as of today we have passed about 25 city council resolutions in support of community radio. Every single one has passed unanimously! This amounts to well over 200 mayors and council members -- what are the odds they would all vote exactly the same on any issue!?! Meanwhile, we had gathered 4,000 constituent letters, finding virtually unanimous support for community radio on the street. To our knowledge, exactly one letter was ever presented in opposition to our resolutions -- from the powerful Michigan Association of Broadcasters. We later learned that Rep. Schermesser (and others) herself had written to Rep. Middaugh four times, asking for action on HR67 in Middaugh's committee. According to Schermesser, Middaugh simply refused to budge. Thus, one person was able to singlehandedly thwart the democratic process, and the will of 4,000 Michigan letter-writers and 200 mayors and council members!

This is how we define undue influence of the broadcast industry over the regulatory process!

We too respect the established committee process. But, according to Michigan's *A Citizen's Guide to State Government*, A...arbitrary refusal of a committee to report a bill can be remedied by a motion to >discharge the committee from further consideration... This certainly seems like a textbook example of arbitrary refusal, and in this case the discharge motions were further justified due to the emergency nature of the matter.

As stated, about 25 Michigan city councils (also townships) have passed resolutions favorable to community radio. About 80 of our volunteers are working on this project, and approximately 40 more cities are pending. Among those which have passed already are: Detroit, Ferndale, Hazel Park, Hamtramck, Ann Arbor, Howell, Southgate, Wyandotte, Ecorse, Trenton, Taylor, Mt. Clemens, Melvindale, Marysville, Lincoln Park, Farmington, Washington Twp., Grosse Pte. Woods, Shelby Twp., Livonia, Royal Oak, Dearborn and Bruce Twp. Together, these cities represent about 1.8 million Michigan citizens. Additionally, the Washtenaw County Commission has also passed a resolution in favor of LPFM.

And we have successfully lined up the support of many community groups; religious, social justice, labor, political, etc.

This activity has been sufficient to warrant considerable local media coverage B although almost entirely from the press, with very little reporting from local broadcasters on this issue! This curious fact raises questions about local broadcasters= commitment to their public interest responsibilities, at least when their own interests are at stake. In fact, over the past two years when trying to discuss the topic on local talk radio shows, we have usually never made it past the person screening the calls. One DJ who had slipped up was later taken aside by his boss and told ominously, AWe=re not going to have any more discussion about programming on the air, are we?≡ The irony is bedazzling -- we can=t even use our own public airwaves to debate who is allowed to use our public airwaves!

Two and a half years later, our weekly meetings continue, well over a hundred by now. Clearly there is enormous and sustained support for community radio and local music in our city.

There are two possible explanations why Michigan has so much more comprehensively demonstrated public desire for community radio -- our city and state resolutions, our Congressional leadership on this issue, etc. -- than other parts of the country. On the one hand, perhaps by some miracle of geography it is only Michigan citizens who really demand community radio. On the other -- a much more likely explanation -- is that in Michigan, extraordinary circumstances led to the evolution of an effective citizens= lobby. We are positive the demand for community radio is universal -- why would it exist just in Michigan? However, in other parts of the country, sympathetic elements were simply unable to coalesce in the way it happened here. This model suggests a crucial need to strengthen communication options and abilities for communities across the country -- such as could be provided through LPFM. It also casts substantial doubt on the claim of Commissioner Furchtgott-Roth that existing methods of communications -- flyers, etc. -- are sufficient for communities to interact.

We incorporate by reference the documents stated in the above section.

3. WHAT DOES THE PUBLIC WANT?

The single most fundamental issue concerning community radio must be the F.C.C.'s public interest standard, which Chairman Kennard correctly refers to as the agency's Abedrock principle.≡ Only after this obligation has been satisfied can the agency legitimately consider other issues.

What does the public have to say about community radio?

We and others in the movement have spent a great deal of time and energy trying to answer that question. In fact, we've demonstrated conclusively the overwhelming support of virtually every sector of society! We've produced support from labor, from the religious community, ethnic minorities, women's groups, educators and students, the rich, poor and working class, political parties of left, right and center, grassroots activist and community groups of all kinds and stripes, the media, rockers and classical music aficionados -- people from every possible background and position in life. This amply demonstrates the fundamental value American society places on freedom of expression and the desire to see opportunities for that expression to be increased. Very few need to have the crucial value of community radio explained to them.

Powerful evidence comes from the F.C.C. itself which reports 13,000 requests for community radio licenses in 1998 alone!

On the other hand, the broadcast lobby has been able to demonstrate opposition to community radio from only the thinnest slice of American society B that is, the broadcast lobby itself. Has the N.A.B. or N.P.R. produced even a single person not directly connected to broadcasting who opposes community radio? We do not doubt that a few such people exist in a country this size, but it also seems obvious that for every one, there are ten thousand who support community radio.

In fact, many existing broadcasters themselves have come out in favor of community radio! A March *Radio World* editorial encouraged the adoption of LPFM; recent industry polls have shown a substantial majority of licensed broadcasters in opposition to recent F.C.C. raids on community stations; several broadcasters have threatened to cancel their membership in the N.A.B. over this matter; and several times we have received (unsolicited) inside information from N.A.B. members sympathetic to our cause. The broadcasters cannot even present a unified front of their own members against community radio!

Those who wish to influence the legislative or regulatory process in this country are obliged to demonstrate public support for their position. One side in this issue has succeeded at that with impressive results; the other has failed beyond any measure. This evidence, more than anything else, absolutely compels the F.C.C. to rule favorably on community radio. How can the agency justify a regulation as being in the public interest when the public is united and ignited against it!?

To put this in even clearer perspective, one must remember that the broadcasters, by means of their effective monopoly over the public airwaves, have an overwhelming advantage in terms of influencing public opinion. Free speech activists are forced to whip up public support via flyers produced at the corner copy shop, while broadcasters are in possession of the (public) resources to spread their anti-community radio message far and wide. Yet they choose to ignore the subject.

In fact, they go farther. We have direct evidence of broadcasters in our state subverting the potential for public debate about community radio by disallowing such conversation as a topic on their talk radio shows.

Again, this raises anti-trust concerns, as well as demonstrating a fundamental unfairness, while raising

eyebrows about the broadcasters' own commitment to their public-interest obligations. How ironic that we can't even use our own public airwaves to debate who should be allowed to use our public airwaves!

We conclude that the reason the broadcast industry has refused to allow this debate or even to air their own side of it! -- is because they know full well their positions, points and arguments cannot withstand public scrutiny. We have a hard time imagining them having much success should their DJs begin making this impassioned plea to their listeners. Write a letter to your senator today, urging them to defend our right to monopolize the public airwaves!

As if this weren't enough in an awe-inspiring paradox, they actually claim to *speak* for the American public they've helped to silence! Comments such as CEO Eddie Fritts at the recent N.A.B. convention demanding the F.C.C. *First nurture the IBOC rules to ensure the public's ability to receive the highest quality radio service* are common. Never mind that the American public has never heard of IBOC, nor realizes there are at least five other competing technologies for terrestrial digital radio. Pay no attention to that nation behind the curtain, the visage of Eddie the Wizard bellows. He speaks for all of us.

Of course, broadcasters are people too, and we do not devalue their own rights in terms of the public airwaves. But there is no legitimacy in the rights of the one percent always prevailing over the rights of the 99%!

For a particularly illustrative example of what the public really thinks of the corporate domination of our airwaves, we refer to the comments in this proceeding of microKind Radio San Marcos, which among other things calls for;

* An investigation by the anti-trust division of the U.S. Justice Department to confirm monopoly takeover!

* A No corporation shall be allowed to own any type of FM license.≡

* AReduce all FM licenses, commercial and non-commercial, to 100 watts.≡

* ANo station owners outside the community of the station of origin.≡

We suspect that the public would find such concepts quite intriguing, if not downright appealing -- should the public ever be given the opportunity to consider them.

Too often, what the public actually wants is never even addressed when communications policy is set in this nation. A perfect example is the 1996 Telecom Act, of which syndicated columnist Molly Ivins recently wrote, *AWhen you let an industry write the law deregulating itself, which is what Congress let happen in this case, the result is not likely to be a festival for consumers.*≡

When does the public ever really participate in F.C.C. rule-making procedures? It is the broadcast industry virtually alone which normally participates. Little wonder then, that Mr. Fritts and the broadcast industry feel safe in defining the Apublic interest≡ for us.

This explains the often bizarre conclusions reached by the F.C.C., such as when giving credence to ridiculous industry claims that consolidation and fewer voices does not affect diversity, or that fewer owners actually promotes Acompetition.≡ These things are by definition false! But when bureaucrats struggle under the crushing weight of the industry titans it is no wonder their blurred vision often allows them to see neither the obvious nor the public they are supposed to serve. We don=t blame the Commissioners, and in fact think most of them do a wonderful job under extraordinary circumstances. However, we do understand the situation -- and the need to lessen industry influence over the administration of such valuable public property.

Lawrence Soley clarifies the special relationship between the agency and industry in the past;

AFirst, F.C.C. commissioners usually come from the telecommunications industries B the very industries they are supposed to police. A House subcommittee study of F.C.C. appointees noted that ten of the 19 commissioners appointed during a 16-year period had come from the industry or from law firms representing the industry.≡

ASecond, commissioners who prove to be loyal supporters of corporate interests are often rewarded with high-paying industry jobs after leaving the F.C.C. A study of the 33 F.C.C. commissioners who served between 1945 and 1970 found that 21 went on to become lobbyists for, or lawyers representing the telecommunications industry; the other 12 were elderly and retired after their F.C.C. posts. Consumer activists like Ralph Nader refer to this problem, which remains endemic, as >deferred bribery.≡

The Summary of the NPRM (para. 112) states that the agency hopes Ato receive comment from a wide range of existing and potential users of the FM spectrum.≡ In fact, the entire public Auses≡ the FM spectrum, and we have established that the public has already spoken.

For the F.C.C., community radio is not an option -- it is a duty. Give the public what the public demands.

4. CONSOLIDATION & DIVERSITY

It is not necessary for the Michigan Music Campaign to provide the agency with a detailed analysis of recent consolidation in the broadcast industry. Suffice to say, it is both unprecedented and highly alarming.

But what is even more alarming is that suggestions of eliminating ownership limits altogether are not dismissed out of hand, but are actually given serious consideration! A nation that puts such great value in democracy ought not act so recklessly, because history proves democracy is not necessarily eternal. In fact, a true democracy is more akin to a fragile flower which only survives due to constant care and attention.

It is interesting to hear the broadcast industry, on the one hand, argue for a complete deregulation of the telecommunications industry B at least when it comes to eliminating ownership limits. However, none call for deregulation when it means allowing unlicensed stations to operate in competition with their empires. In other words -- deregulation for them, but not for us!

There is a clear and obvious link between media and democracy. Certainly it has been well established that countries with a broad range of society actively participating in media creation also tend to have much more developed and successful democracies. Countries where media participation is highly restricted also tend to be both considerably more autocratic and authoritarian. In fact, they are also more often likely to be corrupt,

threatening to their neighbors, and prone to Arenegade-status≡ in the world view, etc. In general, kings and dictators find it much easier to control a handful of media titans than armies of independent media owners.

Do we really want to emulate the Iraqi or Serbian models, with their monolithic and tightly-controlled media? Or do we follow the spirit and tradition of the independent pamphleteers who inspired the American Revolution?

It is of course impossible to measure the quality of a democracy by purely scientific and objective criteria. Nevertheless, almost everyone would agree on certain standards when it comes to measuring the quality of democracy B free elections, checks and balances, etc. Most people would include, of course, the presence of a free, diverse and independent media on this list.

However, it is considerably more difficult to measure the quality and depth of a society=s culture. What possible standards could be agreed upon in terms of culture? We suspect there would be little common ground in this area.

So when we hear comments from Commissioner Powell that the courts will likely require a clear link between diversity of ownership and diversity of programming, we are very concerned because it is as if we are demanded to prove the unprovable, by using terms no one can even define in a fully comprehensive way! It is difficult if not impossible to objectively measure the level of racism in a society, yet we are pretty sure that it exists. It is at least equally as impossible to measure the level of cultural diversity in a broadcast environment. Nevertheless, again we can sense when it is there and when it is not.

Rather than place impossible obstacles of proof in the path of LPFM advocates, why not accept the obvious: that a broad diversity of media owners is far more likely to produce a broader diversity of information and culture than a small number of owners? To argue otherwise is contrary to all common sense and so remotely unlikely to be true that we only waste time considering it. To be sure, there may be examples of when fewer owners did indeed provide greater diversity. But to pretend this would happen a majority of the time is ridiculous.

5. IBOC & TERRESTRIAL DIGITAL BROADCASTING

The misinformation about terrestrial digital radio is scandalous, and deserves scrutiny. We are aware of at least six different competing technologies, including AIBOC[≡] and AEureka 147." In the U.S., only one appears to have received any serious consideration at all B IBOC. However, we understand that much of the rest of the planet presently favors or has already installed Eureka. As our nation bravely embarks on Athe road much less traveled[≡] into a potentially risky and expensive digital future, probably fewer than one in a thousand Americans can even correctly identify IBOC as a terrestrial digital broadcast system or know what the acronym stands for.

Despite the absence of a formal rule-making, it is hard to believe the agency has not already chosen IBOC as our nation=s terrestrial digital broadcasting standard. References to IBOC litter the LPFM NPRM specifically, and much of the rest of the body of material published by the agency. There has been scant recognition of other competing technologies.

Commissioner Furchtgott-Roth (speaking about LPFM) says the agency;

AΨmust be careful not to slant our presentation toward one point of view, lest the Commission become an advocate instead of a neutral decision-maker. Of all agencies, the F.C.C. should not be attempting to shape and color public opinion on matters before us by the dissemination of unbalanced information. I believe that, if we are to enjoy the appearance of fairness in the rule-making process, we should not use government funds to

promote a particular result prior to even the issuance of an NPRM. Not only does such promotion damage our impartiality, but it puts private interest groups on the other side of the issue in the position of having to expend resources to counter not just the efforts of opposing parties but of the agency as well.≡

There is very little else in the Commissioner=s dissenting statement with which we agree, but on these points he is completely correct. However, these general points are far more accurately applied to the agency=s handling of IBOC than LPFM! While an impartial and removed observer would easily be able to detect from agency statements and publications that there exist competing claims and positions in regards to LPFM, that same observer would hardly be able to discern that there are alternatives to IBOC.

It seems hazardous for the F.C.C. to leap into a far-reaching decision about terrestrial digital broadcasting with so little known about the subject even by the experts (as evidenced by the often contradictory conclusions they reach; App. C, para. 4, contradictory conclusions drawn by USADR and the N.A.B.). Even more obvious, however, is that the American public must have the opportunity to express its own thoughts and desires concerning terrestrial digital radio. How can we know what is in the public interest if we don=t even bother to ask?! No decisions with such long-term ramifications should be entered into until there has been ample education, debate and polling to determine what an informed American public really wants.

If digital television can be used for comparison, it seems unlikely American consumers are thrilled about the prospect of throwing away their radios and stereo receivers in order to buy expensive new digital versions, anyway. Sales of HDTV digital TV sets amounted to less than five hundredths of one percent of total television sales in the US in 1998, leading Forrester Research to conclude HDTV will be Aan expensive flop.≡ As of March 1999, not one of Time Warner=s 1.1 million New York cable customers had requested the special decoder box necessary to receive HBO=s HDTV signal!

Some competing terrestrial digital systems claim an efficiency capable of squeezing five times as many

channels into the same amount of spectrum space. IBOC digital, by contrast, is even less efficient than analog! The question is, would the public prefer 500 channels in the space of 100, or the short-term flexibility of IBOC?

The time to revisit the arcane 200 kHz channel bandwidth standard is long-overdue. Such a standard is based on technology from many decades in our past, it is grossly spectrum-inefficient and dis-allows many more stations on the dial at a time when there exists incredible demand from the public for new licenses. The F.C.C. should be requiring tighter standards of receiver selectivity from manufacturers and should be moving towards tighter channel bandwidth standards (perhaps 100 kHz channel width), since this would be easily achievable and clearly in the public interest in so many ways. Instead, by Aadopting≡ in prejudice the IBOC standard (which requires the full 200 kHz channel width -- and perhaps even more!), the F.C.C. is moving to lock our nation into a broadcast standard which should have been retired decades ago.

We are informed that Aanalog FM is more robust at penetrating steel reinforced buildings,≡ and that the Apicket-fencing≡ associated with analog is nothing compared to the Ashelf effect≡ of terrestrial digital.

We are also concerned about reports that in fact IBOC has not worked very well so far. In fact, trade papers are full of articles outlining the failure of IBOC to work properly.

We are also concerned about predictions that IBOC will require an even more inefficient use of spectrum than presently stated in order to function properly! In other words, some have suggested that the IBOC system has been forced on us based on overly optimistic technical standards regarding efficiency. Once other competing terrestrial digital technologies have been officially removed from consideration, then USADR will report the bad news that IBOC will require even greater spectrum inefficiency!

How gripping the irony that it was arguments about spectrum inefficiency used to do away with Class D licenses 20 years ago. Having served its purpose, LPFM opponents unceremoniously throw Aefficiency≡ out

the window by, and now claim IBOC as the new holy grail in the name of which everything else must be sacrificed!

What are the benefits of terrestrial digital? Terrestrial digital provides an improved signal-to-noise ratio. However, since most commercial broadcasts are already extremely compressed, the potential for an expanded dynamic range will never be appreciated or enjoyed. And since most people listen to radio in their cars, even if a DJ stops talking for a second all you will hear is the car next to you! An expanded signal-to-noise ratio is meaningless unless you are in a setting (such as a concert hall) where one can appreciate a greater dynamic range and where the noise floor does not exist far below naturally occurring ambient noise.

Another benefit of terrestrial digital of which we have heard will be the ability of broadcasters to flash advertising messages on our new digital radio's screen. This is truly something we can live without!

The Corporation for Public Broadcasting says their transition to digital television will be substantially compromised without additional federal funding. Will public radio require a similar extra subsidy, and if so wouldn't it be wiser to gather complete information to avoid making an expensive (tax-payer funded) mistake?

There is also a concern that in the future, IBOC radios used by American citizens will not work anywhere else, nor will other nations' radios work here! In addition to the inconvenience, American radios could end up costing significantly higher.

We suggest that stations anxious to broadcast digital in the existing FM spectrum do so over their SCA subcarrier audio channel.

We also suggest that whatever form of terrestrial digital is finally implemented that it be done at a much higher frequency, where it is easier to implement digital and where most of the rest of the planet is situating

their terrestrial digital broadcast frequencies.

It is interesting that the IBOC system calls for not one but two adjacent digital signals around the existing analog signal. Appendix C, para. 2 refers to A*significantly increas(ing)≡ the digital signals at a future date.*

With this in mind, one grows highly suspicious that the enormous pressure for IBOC coming from the broadcast lobby (but nowhere else) is partly motivated by a vision of a future A*stock-splitting,≡ so to speak; eventually having two frequencies where they used to have one.* The recent \$70 billion digital TV spectrum giveaway comes to mind in this regard.

It should be noted that the parties advancing IBOC at the expense of LPFM are essentially the same parties which will face new competition from LPFM stations. Little wonder then that they insist IBOC be implemented first, in order to circumvent to as great a degree as possible the creation of competing LPFM stations.

IBOC is being advanced by USADR, a cooperative effort of CBS, Westinghouse and Gannett. When seeking approval, USADR stated about IBOC, A*Since there is no direct overlap of energy between the desired digital signal and second-adjacent signals, the effect of . . . interference is minimal.≡ A*Digital reception is essentially not susceptible to third-adjacent channel interference; nor is IBOC likely to increase the potential for causing such interference to analog stations.≡ According to the statements of the LPFM opponents themselves, along with points expressed in App. C para.4, community radio as proposed by the F.C.C. appears highly unlikely to pose a problem for IBOC.

However, for the sake of argument, let us assume to be correct the F.C.C.'s concerns about the potential for a mutually exclusive conflict between LPFM and IBOC terrestrial digital, with each side demanding their own project be implemented first. Again, what does the public want? Where are the hundreds of public rallies and demonstrations demanding IBOC? We've seen them for LPFM. Where is mass movement of IBOC enthusiasts so obsessed with the technology that mere FCC regulations alone cannot restrain their compulsion

to broadcast their amazing new digital signal? We=ve seen it for LPFM. Where are the hundreds of articles in practically every newspaper big and small, noting the huge public outpouring for IBOC? We=ve seen it for LPFM. Where are the tens of thousands of letters written to elected officials demanding IBOC, the city council and state legislature resolutions? We=ve seen them for LPFM.

In fact, as demonstrated, demand for digital broadcasting in general could hardly be less.

If the public interest standard remains the agency=s Abedrock principle,≡ then the F.C.C.=s mandate is clear regarding LPFM and IBOC.

6. SPECTRUM AVAILABILITY ANALYSIS

We thank the agency for the intensive spectrum availability analysis described in App. D.

We share the somewhat universal concern of a fairly limited availability for LPFM given the proposed guidelines, but take some heart in the implication in App. D that the analysis was prepared in such a manner to present a conservative estimate of available stations, rather than an Aoverly optimistic assessment.≡

We reject out of hand the suggestion of Commissioner Furchtgott-Roth that LPFM be abandoned because of existing impediments to its full implementation.

We direct the agency to our comments and suggestions in Section 10.a: Estimated Sufficient Minimums and Section 10.c: Emissions & Bandwidth.

We repeat our urgent demand that every possible option be explored in order to create the absolute maximum number of broadcasting opportunities; including but not limited to:

* Narrowed channel bandwidth: We encourage the agency to continue exploring the idea of narrowing the bandwidth allocated per channel -- for all stations, full-power and LPFM. It should be the goal of the agency to minimize the existing bandwidth allocations of all

broadcasters in the public interest of satisfying the public demand for new stations. The 200k spacing is based on long obsolete technology. Also, the F.C.C. ought to begin raising receiver standards and mandating better selectivity from manufacturers immediately, so that the impressive benefits of a narrowed bandwidth system can one day be enjoyed. If Americans were told that the technology readily exists to allow 200 channels in the space of 100 (or perhaps even more with a superior terrestrial digital technology), they would demand these changes.

* Expanded spectrum: Referring to para. 15 of the NPRM, we agree that it would be unfortunate for consumers to be required to purchase additional equipment in order to receive LPFM stations. However, this would still be preferable to additional LPFM stations being unavailable at any price.

* Shared licenses: Again, this is not a preferable option but one which can be lived with. And wonderful it will be if the concept of sharing public resources \cong actually gained a foothold in policy-making in the world of broadcasting! If there is anything full-power broadcasters need to learn, it is how to share.

* Relaxed geographical spacing requirements, as proposed by the REC Networks.

* A contour-overlap interference protection methodology rather than one based solely on distance separations: This and the item below would seem easiest to implement by way of local volunteer non-governmental broadcast authorities.

* A methodology based on terrain or topography, as advocated by some.

* Relaxed adjacency protections: Covered in detail in Section 10.b *Interference Concerns/Adjacency & Other Restrictions*.

* Allowing community stations to accept but not create interference, etc.: Covered in Section 10.c *Emissions & Bandwidth*.

* Directional antennas and spectrum masks.

* Most important of all is to halt the impending implementation of IBOC terrestrial digital in favor of a system that would take advantage of, rather than waste, digital technologies= inherent spectrum efficiency.

The potential through LPFM for community building, for civic participation, for cross-cultural understanding and bridge-building, and for a million other things, many impossible to adequately describe through mere words is simply enormous. LPFM has the potential to alter in a fundamental way the lives of tens of millions of Americans. This potential should be exploited to its fullest. To limit LPFM to a half-dozen stations or less! In major metropolitan areas is a monumental error. One can pick only the apples within easy reach or one can get a ladder and have a whole bushel of apples. The effort we put into maximizing the potential for LPFM will be rewarded many times over. Let ten thousand transmitters bloom!

7. AMNESTY

The Random House Webster's College Dictionary defines A pirate as, Ato plunder, or Arob. While the commercial broadcast industry plunders our communities to the tune of about \$60,000,000,000.00 (billion) dollars every year, it has yet to be established that unlicensed broadcasters across the entire country have collectively profited beyond a few thousand dollars at most! In fact, it is almost certainly a negative number since most unlicensed broadcasters have operated at a loss, with no concern for profit, cash flow, or A the bottom line.

Here in Michigan, we have tried to set an example of how one can work within the system: lobbying Congress, participating in the Comment/Reply-Comment procedure, educating the media, public demonstrations, investigating possible litigation, etc. We also, for the most part, agree on the need for government to regulate the airwaves, although through a fair and open licensing process which currently does not exist.

However -- in very limited circumstances -- we sometimes respect those who feel they must break the law in order to preserve and advance justice. Thus, we support the great majority of micro-power broadcasters who, although unlicensed, have proven embarrassingly more successful at fulfilling the public interest mandate than almost any of their locally licensed counterparts, all while being careful to not interfere with their neighbors on the dial.

This country, after all, was founded in acts of civil disobedience. Civil disobedience has never ceased to play an important role in shaping American justice and society. Practitioners of civil disobedience are among our nation's most revered historical personages. Until our nation's system of justice is perfected and without flaw, we think it is both likely and desirable for civil disobedience to continue where appropriate and necessary.

Of all the values we collectively respect, freedom of expression is perhaps what most characterizes ourselves as Americans. Driven in this manner, many hundreds if not thousands of community groups have felt compelled to practice civil disobedience by broadcasting without a license in order to challenge regulations which undemocratically reserve the public airwaves for only the wealthiest. Unlicensed broadcasting is a non-violent, passive form of protest. When practiced responsibly, i.e. without causing interference, it is also quintessentially unobtrusive. Not one person has been harmed by the thousands of unlicensed broadcasters of the last decade B save those licensed broadcasters who lost listeners because they did not offer what the public wanted.

Regardless of where one stands on the matter of re-legalizing community radio, it seems appropriate to offer at least some respect for the free-speech activists who've risked so much in the name of civic duty. Rightly or wrongly, they've stepped forward to serve their community and nation. This model, of selfless civic servant working to defend the First Amendment, best describes the overwhelming majority of micro-power broadcasters and their supporters. (Virtually all are also defined by their dedication to non-violence.) Can this same model seriously be used to describe the average commercial, licensed broadcaster? It is quite a parody to suggest that commercial broadcasters typically favor serving the public interest first and that the maximization of their profits come second to them.

Far from a matter of character deficiency, we strongly believe these free-speech crusaders have amply demonstrated a *surplus* of character, courage and civic responsibility! What can most licensed commercial broadcasters point to as evidence of a similar surplus on their own part?

When our Campaign successfully demonstrated an overwhelming desire for Detroit music on Detroit radio, the commercial broadcasters reacted not out of respect for our concerns -- but with hostility and intransigence! They attacked us on the air, lied about us in private and fomented rumors against us. Rather than respond to their listening audience, they acted consistently as if we were their enemy, moving to silence, divide, and ridicule us. In fact there is some evidence which suggests they acted to blacklist certain bands who dared to beg them for more local airplay!

Who was it who responded to the consistent and clear demands of our community? It was Ron Gutzeit of *Free Living Radio*, who risked fines, forfeiture and loss of freedom -- with no hope or intention of pecuniary gain B just so that the public interest would be served! *That* is how we define Acharacter.≡

Gutzeit played exclusively local music when even the best Detroit stations gave it only about .25% (one quarter of one percent!) of their airtime. Gutzeit was stopped cold when his equipment was finally seized in February 1999. The complainant in the case was Gregory Jablonski of WHMI 93.5 FM. Gutzeit had been operating a 40-watt transmitter at 89.7 FM B a full 19 channels away! Obviously interference was not a concern, especially with Gutzeit=s rock-solid transmitter. In fact, Gutzeit represented some of the only competition to WHMI, and we think it is obvious that it was fear of competition driving this complaint -- and the silencing of the only station in the area truly serving our needs.

So we understand and sympathize with those who consider Jablonski=s actions in this matter to be nothing short of despicable. Jablonski, and others, have subverted the public interest simply for personal gain. We believe this is one very good way to identify a *Acharacter deficiency*,≡ and certainly far better than the F.C.C.=s current standards.

But if we are to have *Acharacter standards*,≡ by all means, let us make full use of them, including applying them to every member of Congress and the F.C.C. Commissioners themselves.

Interference from existing community stations has been grossly over-stated. It is simple logic that if one is operating a 50-watt station, it is a good idea to use a different frequency than the 50,000 watt station down the block! In fact, according to journalists Bilotta-Dailey and Siska, the F.A.A. has records of several cases of interference by large, licensed stations. For example, ATwo reports on North Perry Airport in Florida indicate that they have changed their frequencies several times to accommodate interference from commercial stations. In 1990, there was a fatal mid-air collision at this airport. One FAA report indicates thatΨone of the pilots may have been flying in a so-called >radio blackout= area said to be caused by an antenna farm two miles away.≡

The N.A.B. says, AThe F.C.C. should not . . . legitimize the pirate broadcastersΨ≡ They want you to punish not only the free speech crusaders, but also the 95% of those who requested licenses but never broadcasted illegally! Of course, by this logic, black people should still be riding in the back of the bus -- lest we reward Rosa Parks for her civil disobedience! By this logic, a king should never establish relations with a new nation lest he reward those who threw overboard boxes of tea.

Allowing amnesty for unlicensed broadcasters is the only way to bring them under regulatory control and scrutiny.

To disallow licenses to the very parties who laid the groundwork for MM Docket 99-25 and provoked this critical debate over whether the public should be able to use the public airwaves would be like giving the vote to women B but not the suffragettes who broke the law in order to win that right!

The *Michigan Music Campaign* supports full amnesty for past, present and future unlicensed broadcasters who agree to participate in a licensed, regulated environment. And, based on their prior demonstration of a character surplus and pre-existing service to their community, we support a license allocation preference to parties which operated unlicensed community stations over the past decade, provided those stations were

operated in a manner consistent with the public interest, i.e. no interference with other stations, etc. We also agree with those who demand that the F.C.C. immediately return any confiscated equipment or provide adequate compensation for such equipment.

We also support the F.C.C.'s efforts, upon the establishment of a fair and sufficient LPFM service, to maintain order on the airwaves by acting to remove remaining unlicensed broadcasters.

At the same time, and in awareness of the apparent contradiction B we believe something truly great, fiercely independent and honorable about America will die when the last pirate is finally silenced. Thus, we hope there will always be at least a few voices operating outside of the system, and that the F.C.C. raids we grudgingly accept as necessary will never be completely successful.

Actually, this is probably no less contradictory than the F.C.C. raiding LPFM stations while simultaneously moving to legalize them. Another analogy is the separation of powers foundation on which our government is structured. Checks and balances make sense in a multi-dimensional reality. We want the F.C.C. to be in control -- but not too much in control. We believe the F.C.C. to be essentially benign, at least compared to similar agencies in other parts of the world -- however we also recognize the potential for that to change. And we also recognize that to the extent the agency is not benign today, it is because of the inappropriate and dominating influence of the broadcast industry, which subverts the public interest by using the F.C.C. as its censoring arm.

In summary, let us remember that with every raid on an unlicensed community radio station, an American voice is silenced.

8. THE PETITIONS

8.a RM-9242/THE SKINNER PETITION

We agree with the F.C.C.'s determination that 3,000 watts are too much for community radio.

In fact, we support the F.C.C.'s plan for LP-1000 stations only in rural areas. Such stations in a metropolitan area would preclude many smaller community stations from being licensed. Further, such stations in a metropolitan area could easily reach tens, if not hundreds, of thousands of people, and are thus likely to attract the same enormous commercial interests that have so dominated the full-power stations.

We see some merit in a special event service in Detroit, which would allow for special broadcasting associated with area festivals and events, such as the annual *Woodward Dream Cruise* and other festivals. However, such a service is not a primary concern of ours.

We disagree with Skinner's second tier being given secondary status, for fear of our community stations being bumped by full-power stations seeking to expand or move.

We sympathize with Skinner=s model of LPFM as an avenue for small or family-owned businesses, and see a great need and demand for such opportunities in Detroit. As well, small, localized businesses, such as coffeehouses, need affordable, efficient and effective opportunities to advertise. Why should a laundromat or local grocer advertise on a Class C station, and pay expensive rates to reach listeners who will never patronize their business?

We agree that LPFM stations should be required to present a *Aschedule of minimum hours of operation per week.*≡ With so few licenses to become available in Detroit, we cannot afford for any of the new stations to sit idle, especially when there will be such a tremendous demand for these licenses.

8.b RM-9208/THE LEGGETT PETITION

We reject with extreme prejudice Leggett=s original plan to confine community radio to one-watt stations on a single channel. Such a plan would be an unconscionable insult to the American community. However, we find Leggett=s amended plan B with two tiers, reaching one and five miles respectively -- to be an enormous improvement.

We agree that ownership of these stations should be limited to individuals whose primary residence is within 25 miles of the station, and very small businesses/non-profits with primary headquarters in the same area. We feel strongly that LPFM licenses should be strictly limited to one per owner.

8.c COMMENTS

In addition to the issues expressed in para. 8, we must also add:

* A concern for fundamental fairness in the allocation of public resources. (Sec. 8d, *Need For Low Power Service*; Sec. 10b *Interference Concerns/Adjacency & Other Restrictions*; Sec. 11 *Alternative Proposals*)

* The threat to democracy as a result of both consolidation and an ever-rising economic threshold barring access to the airwaves. (Sec. 4 *Consolidation & Diversity*)

* Concerns about cultural homogenization. (Sec. 4 *Consolidation & Diversity*)

* Local economic effects, not only for local advertisers but also for entire local music economies. (Sec. 2 *Introduction*)

* We also have a general concern about substantial evidence of character deficiency on the part of our opponents in this issue, who, in our opinion, have acted repeatedly and consistently to mislead, overstate and misrepresent in their public remarks and comments. Additionally, they have acted to repress public debate on the public airwaves over who is allowed to use the public airwaves. And they have demonstrated a pattern of behavior and attitude in regards to their listeners and their public interest responsibilities that approaches scandalous. All these call into question their qualifications for possessing a broadcast license.

We wonder how (para. 9) the N.A.B. and N.P.R. would prove their assertion that Aexisting radio stations are already serving the myriad needs and interests of their communities≡ in light of the 13,000 requests for new stations in 1998 alone? Let us not confine ourselves to asking the fox whether he has been raiding the coop B let=s ask the chickens too. Judging by the fact that the broadcast industry has counted a steadily declining percentage of Americans as their listeners for many years now, it might appear that the public would not give such an all-encompassing expression of satisfaction regarding the current state of broadcasting B that is, if anyone were to bother to ask.

We address the complications of proving anything about such a broad term as Adiversity≡ in Sec. 4

Consolidation & Diversity. But we are not pleased with implications that LPFM opponents might well be required to shoulder the burden of proof in these matters. In any case, one might suspect that our opponents are taking advantage of the matter by throwing out claims that B despite their being ridiculous B are also quite difficult to *prove* so.

For example, the N.A.B. contends that *Athere is no indication that the diversity of station formats is decreasing,≡* even while the number of owners shrinks rapidly. Of course, how can anyone prove whether Adiversity≡ has increased or diminished? No two people would ever use the same yardstick for such a subjective measurement. Having thwarted our ability to prove them wrong, the N.A.B. expects to have won the argument. But we respond by asking *them* to please *prove* that fewer owners actually promotes diversity! And since neither side can offer proof, we leave it to the F.C.C. to decide for itself which is likely to foster greater diversity B more owners or fewer. We grant that no one can say with absolute certainty who is right. But common sense suggests that greater numbers of owners are likely to lead to a greater degree of diversity most of the time.

Frankly, this kind of topsy-turvy logic which makes one=s head spin until we=ve forgotten which way is up, is not at all new when it comes to the broadcast lobby=s efforts to influence the regulatory procedure. Time and again the industry has used nothing but smoke and mirrors to create incredibly convoluted arguments -- which coincidentally conclude that what the industry wants just happens to be in total synchronization with the *real* public interest. (Never mind what the public itself thinks.) A more perfect example cannot be found than the use of Aspectrum efficiency≡ to justify the barring of the public from the public airwaves through the discontinuation of Class D licenses.

Another favorite of ours is when the financial health of the industry is used to measure how well the public is

being served, based on the circular logic that the more broadcasters are able to generate a profit the better the more likely they are to serve the public. In fact, reality suggests the exact opposite -- that the greater the profits being generated, the less likely broadcasters will put public interest responsibilities ahead of profit generation.

For the sake of argument, let us assume that the N.A.B.'s claim is true on a national basis. In any case this still only describes the number of distinct *formats*, not the overall state of diversity. And we contend that it is the diversity within the format itself that is disappearing. No matter whether it is country, jazz, or rock, in every case it is increasingly only the most commercially-accessible versions of that music which is being played. There is precious little that could be in any sense considered *obscure* ever being played on any of these stations. Yes, we realize there are still country, jazz, and rock stations across the country but they are all playing the same 30 songs in their respective formats.

It seems likely that the N.A.B. intended to create a false implication about diversity by their careful word selection which cleverly focuses on *format*, not overall content.

We are pleased to read in para. 9 about a *range* of options for the future development of terrestrial digital radio, because from reading the rest of the NPRM and other material from the F.C.C. one might surmise that IBOC has already been chosen. In any case, we demonstrate ample evidence that the public, while demanding community radio, cares very little about digital broadcasting in general and not at all about IBOC in particular. (Sec. 5, *IBOC & Terrestrial digital Broadcasting*).

N.P.R. claims that *there is no evidence that small geographic areas in fact have sufficiently common programming interests such that the desired niche programming will develop.* In fact, we have provided boxes full of such evidence, in the form of well over 4,000 letters from Metro Detroit citizens, all hoping to hear more local music on the air (copies of the letters are available for inspection). Now that we've put our evidence on the table, we invite N.P.R. to show theirs.

As far as *A consolidation Ψgroup ownership can foster important services to listeners,*≡ in reality the exact opposite has happened here in Detroit, with the specific loss of formats due to ownership consolidation.

Consolidation has also led directly to the removal of local airplay at Detroit stations. When Disney bought ABC which owned the local station, WPLT-FM The Planet, the local-friendly station staff were sacked and replaced by a local-hostile staff. The station which once led the way in local airplay became one of the worst.

Contrary to the alarmist language used by LPFM opponents, especially by the N.A.B., in this NPRM and also in public, one finds in paragraphs 109-110 that our neighbors on both borders allow for low power broadcasting and have apparently not experienced calamity as a result.

8.d NEED FOR LOW POWER SERVICE

A particularly interesting exercise results from an assessment of the need for an LPFM system by the standards used by the commercial broadcast industry itself. We examine specifically the recent study in *Duncan=s Radio Comments* (an online publication of the industry newsletter *Duncan=s American Radio*). The 1997 study, *Abased on results from 168 Continuous Measurement and Standard Report Arbitron markets,*≡ seeks to explain why the existing broadcast industry, instead of growing, continues to lose listeners year after year, consistently over the past decade. According to the study, the current APR (Average Persons Rating, or percentage of the 12+ population listening in any average quarter hours) of less than 16% is the lowest since 1981, with the industry losing essentially a percentage point every year.

Obviously this is of enormous concern to the industry! As the study states, *Aif delivery slides too much, it could offset the remarkable sales gain*≡ (delivery is a particularly interesting euphemism for the word

A demand \Rightarrow) and A if usage rates go down, radio's overall cost-per-point goes up. Agencies and advertisers would be less inclined to use radio, and operators would feel the crunch. \equiv

As a side note, these statements clearly show the motivations driving the broadcast industry. Are they concerned that their diminishing APR suggests a failure in regards to their public interest responsibilities? No! They are concerned about profits! And it is not that profit is the main thing -- to them it is the only thing. There is no better evidence of character deficiency on the part of the commercial broadcasters than their own words.

Given this information, it is likely the industry puts a great effort into accurately determining why they continue to lose listeners by the droves. So what lessons does the broadcast industry feel it needs to learn in order to begin recapturing their audience?

- * They believe they must spend more on marketing and promotion.

- * They believe A Ψ listeners may have gone away because we took their favorite station away. \equiv

- * They believe A There is a disturbing trend away from localness. \equiv

- * They believe A Programming segmentation has gone a little too far. \equiv

- * They blame A increased commercial loads. \equiv

We in the *Michigan Music Campaign* feel that a sufficient amount of the Earth's resources have already been dedicated to bumper-stickers and billboards for local radio, and that more of this is unlikely to benefit anyone. It should also be mentioned that reason number four stands in apparent contradiction with reason

number two. In any case, reason number four is given a mere two paragraphs in the entire report, which also include statements like "it's important to >super-serve= a core of loyal listeners." As well, they include the qualifier, "A little." Obviously the broadcasters are not too sure about programming segmentation having gone too far.

But three of their five explanations point to desires of the public that LPFM is ideally suited and is in fact designed to fulfill.

Community radio will make it feasible for parties to operate niche market stations, such as commercial classical mentioned in the study, that would otherwise be financially impractical or, more to the point, merely profitable but not *enough*. (Detroit's classical station, WQRS-FM, recently switched to an alternative music format because the owners were not happy with the level of profit they were achieving with classical music. In fact, the failure of alternative music at that station has caused yet another format change!). For myself, it has been decades since a station existed which I would have considered a favorite. There is precious little on the airwaves today which interests me in the slightest. But LPFM promises to create many new stations which will attract myself back to radio.

If the listening audience demands localness as the study concludes, then it is hard to imagine anything more suited to the role than community radio! The study reports, *"This bond with the local listener is the very heart and guts of radio. People use radio for companionship and to connect with the world. If all they needed was music, they all have tape decks and CD players, neither of which bombard them with commercials or music they don't like. Radio is the reassuring voice. Good radio is part of the fabric of the local community. If all listeners ever hear is a slick, disembodied voice that never refers to anything local, the bond is broken."*

This is really quite eloquent and perfectly on target. But let us remember: this is the inner voice of the broadcast industry which publicly degrades everything about community radio! Don't take our word for

the need for LPFM -- just listen to what our opponents are saying!

Rather than welcome LPFM, which would indeed demonstrate character on their part, the broadcasters instead are moving to create *virtual Alocalness*,[≡] through the wonders of modern technology, so that a DJ in Tucson can appear to be having an actual conversation with a caller from Detroit, when in reality that *Aconversation*[≡] is nothing but spliced bytes.

The study continues: *A This bond with the local listener is radio=s long-term insurance policy. Radio=s greatest asset is the FCC=s allocation system, which limits the power of stations so that they only cover one city (or at most a city and the region around it). That has always given radio a unique advantage over many other media, particularly media that are national in scope.*[≡]

This statement makes two points: that radio is a unique opportunity (and not just simply one more form of media, as suggested by Commissioner Furchtgott-Roth), and that local broadcasting is particularly and uniquely desirable. We agree!

Finally, the study concludes that because of consolidation (which also is held accountable for the reduced promotional budgets at stations) the reasoning is, *AWe own the station they=re most likely to change to, so we have them either way. Why limit spot loads?*[≡]

We believe this statement reflects the true and truly crass nature of commercial broadcasters in regards to the public interest. They speak the language of high ideals, but at the very foundation they perceive *Athe public*[≡] as something to be tricked and exploited. In fact, in Detroit one company owns four of the rock/alternative stations, so this matter impacts us directly.

We find two lessons to be learned by Duncan=s study. First, it is clear by the industry=s own information that there exists a tremendous demand for niche *Afavorite*[≡] stations, for *Alocalness*,[≡] and for fewer commercials

B all of which can best be provided by LPFM stations.

Second, we learn from this study what exactly worries the very nervous broadcast industry. The National Association of Broadcasters (N.A.B.) CEO, Mr. Eddie Fritts says that LPFM is the most serious issue for the broadcast industry in the last 30 years. Publicly, he points to concerns about interference, terrestrial digital, etc. But based on this study, it is quite reasonable to conclude that what *really* worries the broadcast industry about LPFM B is competition. Indeed this view is proved by the statement in a letter from the Michigan Association of Broadcasters that *Increased competition could over-saturate the market. Profits could deteriorate* Ξ

We thank our industry opponents for providing such an elegant justification for LPFM.

There are a couple of minor additional points which ought to be raised. Para. 3 of the NPRM repeats the petitioner=s claim that LPFM *will allow . . . people of limited means to have a voice in broadcasting in America.* Ξ In fact, it will allow for so much more. *A limited means* Ξ clearly implies a minority of the population, a segment which owns less than most people. In fact, by today=s regulations only a tiny percentage of the population qualifies for the right to broadcast legally. For the most part, this segment also coincides with the most wealthy and powerful Americans. The need for LPFM is that it will make it possible for the first time in history for the overwhelming *majority* of the American population to legally enjoy and use one of our most intrinsically valuable public resources. The promise of LPFM is to extend the right of broadcast from far less than one percent to perhaps more than 90%! What an absolute triumph of democracy it will be, when this plan is approved!

When assessing the need for LPFM, one must consider ownership consolidation and diversity issues, which we cover in Sec. 4.

There is also an issue of fundamental fairness at stake. Our American social contract is based on an

understanding that we are all equal before the law. Indeed, many scholars have suggested a concern about the 14th Amendment when examining current regulations which appear to ban access to the public airwaves on the basis of class. In a country that puts so much value on one-person-one-vote, the public will be greatly displeased should the agency determine that the rights of the average, working-class would-be broadcasters are in fact less sacred than those of the wealthiest members of society.

Para. 10 bases the fundamental need for LPFM on the negative effects of recent broadcast consolidation. We agree with the agency's assessment of consolidation's negative effects and how LPFM will help remedy them. However if, as suggested by Commissioner Furchtgott-Roth, it is determined that consolidation is not *Aan appropriate motivation*≡ for creating a new low-power service, we must point out that the need for a low-power service has always existed, and before recent consolidation trends. Radio was initiated and developed by amateurs, who have never stopped playing a critical role in its development. In fact, the recent national movement to re-legalize community radio began at least 10-15 years ago, so it is quite impossible to hang the whole thing on the consolidation following the 1996 Telecom Act. The Telecom Act made a bad situation very much worse, but the situation was already there. And even if the broadcast industry's 70-year history was flawless, there still exists in this logic no justification in barring so many people from the public airwaves.

We agree with the sentiments in para. 11, that *Aa variety of demands may best be met by more than one station type.*≡ And we agree with the statements in para.12, that describe a lack of serious alternatives available to the general public. However, we also point out the unique qualities of radio which cannot be duplicated by any other form of media. And we also mention that this line of thinking comes perilously close to 1st Amendment prior restraint. Even if a perfect alternative existed, the government must still demonstrate a compelling interest in limiting a form of expression.

8.e SPECTRUM CONSIDERATIONS

We encourage the F.C.C. to reconsider its stated intention of limiting Low Power radio to the existing FM band. See Chapter Six, *Spectrum Availability Analysis*, and Chapter 10 *LPFM*, section a., *Estimated Sufficient Minimums*.

We agree with the F.C.C.'s conclusion that the AM radio band should not be used for LPFM, and that a

single national channel would be far from sufficient.

It is our impression that certain F.C.C. rules regarding eligibility for non-commercial educational licenses are not appropriate.

Regarding par. 21 of the NPRM, we believe the agency's definition of *Efficiency* needs to be revisited. Should the goal of efficiency be to ensure that every nook and cranny of the broadcast spectrum is crammed full of *anything*?! What is the point of replacing static with information no one is interested in? With commercial broadcasters consistently losing listeners year after year, this question is of substantial relevance.

Wouldn't *Efficiency* be more meaningful if it was used in regards to the amount of programming which is actually of some value to the public? We must remember that it was this misguided definition of *Efficiency* which led to the F.C.C. moving in the opposite direction 21 years ago, with the discontinuation of Class D licenses. A far better measurement of efficiency would be to establish to what degree American citizens are satisfied with what they find on their radio dial.

9. TIERS

9.a OVERVIEW

We agree with the F.C.C.'s conclusion that a multi-tier system for Low Power FM is best.

We also find merit in the Amherst Alliance's conclusions that the spread is too great between LP-10 or

micro-radio, LP-100 and LP-1000. As a solution, Amherst proposes a more flexible HAAT scheme, or Awattage-based transitional tiers.≡ We would support a system that introduces flexibility without being overly confusing or complex.

9.b LP-1000

We urge the Commission to adopt a 1,000 watt LPFM service only for rural areas with ample free spectrum space. Stations of this size would naturally preclude the establishment of several LP-100 stations in metropolitan areas with already limited spectrum availability. For Metropolitan Detroit, more people would be served and in a more diverse manner, by several LP-100 stations than by one LP-1000.

We agree that LP-1000 stations should be required to operate *Aunder the majority of the service rules and obligations applicable to primary stations generally.*≡

However, for rural areas with widely distributed populations and for which there is substantially less demand for spectrum space, we believe LP-1000 stations would be appropriate.

If LP-1000 stations are reserved for strictly rural areas, concerns about translator or booster stations are diminished since such stations could easily move to another spot on the dial most of the time. In any case, LP-1000 stations should be given a clear preference because of the fact they will broadcast original, unique content. Translator and booster stations should not be Agrandfathered,≡ to protect their contour from LP-1000 signals.

9.c LP-100

Our greatest interest is in the proposed LP-100 service. As such, we believe it is vital that these stations be given primary status. Also, LP-100 stations must have priority over translators and boosters, without *Grandfathered* protections for those stations. Local programming should be given priority.

We are impressed with the Amherst Alliance's research which indicates a 100 watt service would work best for most of the areas where most Americans live.

We support the suggestion that existing *Grandfathered* Class D licenses also be given primary status, and that such stations should be allowed to convert to LPFM licenses.

We agree with the C.D.C.'s assertion that *Small* must not automatically be equated with *Secondary*.

We generally oppose the idea of allowing translator or booster rebroadcasts of LP-100 signals.

We agree that the F.C.C. should lower the minimum wattage for LP-100 stations from 50 watts to 30 in order to possibly create room for more stations.

Paragraph 30 of the NPRM refers to this service being intended for *Communities of moderate size* *serv(ing) from a few hundred to several thousand listeners.* We wonder if in our case, these numbers might be significantly low, with the proposed service more likely to reach tens of thousands of listeners, and in some cases perhaps over one hundred thousand. We note the conclusion drawn by the Amherst Alliance that an LP-100 station in Detroit might have a potential audience in the range of 274,000, based on our population density of 7,200 people per square mile.

We agree with the idea that LP-100 stations should *be permitted to select channels without regard to*

interference received from other stations.≡

9.d MICRO-RADIO

We support the creation of a 1-10 watt *Amicro-radio*≡ service, as described in paragraphs 34-37. Such a service could be especially important for the urban poor who make up so much of the population of the City of Detroit itself. On the one hand, the highly concentrated population means such stations could reach quite a large audience. In this regard, we note the conclusion drawn by the Amherst Alliance that a micro-radio station in our area might have a potential audience of up to 94,000 people, based on our population density of 7,200 per square mile.

On the other hand, the proportionately lower costs of starting such a station would be especially meaningful in an area with a median household income of just \$18,742.

We are impressed with the reasons given by the Amherst Alliance for a micro-radio service.

We would be willing to accept secondary status for these stations in some cases.

We would like to suggest increasing the range to 1-50 watts. If the F.C.C. adopts a lower minimum for LP-100 stations than 50 watts (such as the proposed 30-watt minimum), that minimum should be the ceiling for micro-radio.

As far as how the institution of such stations might affect the eventual transition to terrestrial digital radio, we feel very strongly that a digital solution can and must be found that is tolerant of micro-radio, and LPFM in general. The extremely dubious *Abenefits*≡ of the IBOC system B irrelevant signal-to-noise improvements, the ability to receive special advertising messages, etc. B hardly come close to warrant the complete removal

from the public airwaves the overwhelming majority of the American public.

Mbanna Kantako of Springfield Illinois, whom many consider the father of the micro/community radio movement sweeping the nation, provides a stirring example of the invaluable role such independent microradio stations could play in impoverished neighborhoods, whose residents suffer in so many ways; crime, police abuse, government neglect, environmental racism, etc. The value of thousands of these stations towards rebuilding our ravaged inner cities and renewing a sense of community is hard to overstate.

10. LPFM

10.a ESTIMATED SUFFICIENT MINIMUMS

How many LPFM stations are necessary in a city like Metro Detroit in order to sufficiently satisfy public demand for specialized programming? We suspect that such a question cannot be answered either comprehensively or definitively. However, it is possible to put forth an educated hypothesis.

The City of Detroit has a population of approximately one million people. The population of the entire Metro Detroit area is approximately 4.3 million people.

During the first half of the 19th Century, as part of the general westward expansion, great numbers of immigrants arrived in Detroit, especially English, Irish, German and Dutch. Other ethnic groups with a substantial base in Detroit include but are not limited to Greeks, Polish, Hispanic and Arab peoples. Detroit also has a very large Black population. Some consider the city among the most segregated in the nation.

With these facts in mind, it seems that a bare minimum number stations that could adequately serve Metro-Detroit=s ethnic communities is perhaps 10-12, with 20-30 much more preferable.

The area boasts an enormous range of local political, social justice, environmental activity, etc. There are hundreds of grassroots activist groups in existence, representing every possible position. However, few of these would have the need for their own station, nor would they be prepared to operate a station. Finally, there is certainly not enough listener demand for each to have their own station. What seems feasible though, is the possibility of cooperative efforts between sympathetic elements of this political activism. For example, one could imagine Peace Action, the Metro Detroit Green Party, the anti-corporate Alliance For Democracy and Affirmations or Triangle Foundation (gay/lesbian organizations) sharing a station, and providing a forum for dozens of smaller groups.

Because of the multi-dimensional character of politics, to conclude that a handful of stations representing either polar opposite B left versus right B is sufficient, is simplistic and confining. But at the very least and in the interest of some level of choice, there should be at least four such stations serving any given locale, two each representing liberal and conservative. Thus, Metro Detroit probably requires a minimum of 20 such stations.

Of course, as with any metropolitan area, the range of cultural interests in Detroit is infinite. However, at least two cultural communities have been particularly vocal in their unhappiness about the limited kind of music heard on Detroit radio. The first, of course, is the *Michigan Music Campaign*, which decries the lack of local popular music. The other is the even looser coalition of classical music supporters who mourn the loss of WQRS-FM two years ago. We do not doubt that other smaller cultural communities would also like more of their own favorite music on the air.

It would certainly be nice if in an area of more than 4 million people there was room on the dial for at least one classical station! Such a station could also provide programming for smaller niche musical demands. In all, perhaps six such stations could well serve Detroit's *Amusical minorities*.≡

For more popular music, i.e. rock/pop/metal, hip-hop, rap, funk, techno/industrial, R&B, country, folk, blues, jazz, etc., the need is for stations willing to play music that is independently and locally produced. The community of local musicians is enormous! We have a database of close to 2,000 active bands in this area, by no means a comprehensive list. Detroit needs at least 12-20 stations to serve this impressive demand.

It should also be noted that for these popular forms of music for which stations already exist, there is an earnest need for far greater diversity. Yes, we have country stations, but they only play the most commercial forms of the music. The same is true for our jazz, rock and other stations. Indeed, one of the driving forces behind the creation of unlicensed micro-broadcasters over the past decade is the army of music aficionados driven out of their mind through employment at existing full-power stations and their tightly controlled playlists.

Although it is our impression that there are a sufficient number of Christian stations already broadcasting in the Detroit area, certainly other religions are wholly unrepresented. One can easily imagine another 12 stations for religious purposes.

It would seem obvious that every city and township government would benefit from its own station. However, with about 100 such governing bodies in this area, that would certainly seem difficult to establish. However, most cities would not be prepared for such comprehensive new responsibilities and costs; others would want to share stations. Thus, perhaps as few as 20 stations would serve this purpose.

Finally, perhaps another dozen stations would be sufficient for other interests B such as hobbies, recreation, etc. B to participate. In fact, it is difficult to imagine the entire range of parties which might be interested in a broadcast license. However, one can at least make a guess based on the broad range of shows on public access TV.

Thus, to adequately serve the wide range of voices, communities and identities in Metro Detroit would seem to require an absolute minimum of somewhere around 80 to 120 stations. However, one could imagine such public demand growing to even 500 stations in the future.

Two final points need to be made: First, this analysis is not intended to suggest the desirability of a quota-based system of license allocation. It is merely intended to demonstrate the level and type of demand that exists.

Secondly, the estimation that Metro Detroit needs 80-120 stations should under no circumstances be used to conclude that community radio is unfeasible, and thus the plan should be scrapped if it proves impossible to find room for anywhere near this number of stations. Indeed, analysis of MM Docket 99-25 suggests there may be room for only four or five such stations based on the F.C.C.'s plan.

If we in Metro Detroit gain even just a single new community radio station as a result of this proceeding -- that will still be a very good thing for our city. Even a crumb is always better than nothing. On the other hand, this analysis should make clear why every possible option to provide for much greater number of licenses must be explored, including; narrowed channel bandwidth, expanded spectrum, shared licenses, relaxed geographical spacing requirements, a contour-overlap interference protection methodology rather than one based on distance separations, a methodology based on terrain, relaxed adjacency protections, allowing

community stations to accept but not create interference, directional antennas, spectrum masks, etc.

Most importantly of all is to reconsider the digital dead-end promised by IBOC, which appears not to work even under current FCC spacing requirements. Other digital systems would apparently provide an enormous increase in the number of available channels in Metro Detroit B and might in fact make it quite easy to accommodate the 120+ community stations our population requires. To institute IBOC without meaningful public debate about the ramifications is unconscionable.

Failing any of this, we in Metro Detroit are compelled to begin looking at the possibility of challenging existing licenses, the automatic renewal thereof, or any of the other more aggressive approaches mentioned in Sec. 11 *Alternative Proposals* or elsewhere within these comments. Indeed, we have witnessed such sentiment growing in many areas across the country.

10.b INTERFERENCE CONCERNS/ADJACENCY & OTHER RESTRICTIONS

We ask the agency to consider the feasibility of a contour overlap methodology (para. 4) when allocating licenses in the hopes of licensing the maximum number of stations possible.

We also ask the F.C.C. to consider the REC Network=s plan for relaxed geographic restrictions.

On the other hand, we think a system based on distance separations would simplify the process for the broadcasting novices we hope to encourage through Low Power FM.

If the choice is between accepting a level of interference from a neighboring station and not having a station at all, the answer is obvious: we certainly support allowing Low Power stations to accept (but not create) interference from existing neighbors.

The views of paragraphs 42 through 45 of the NPRM are correct in our opinion. Our only point of clarification would be to repeat that the benefits we are certain to gain from Low Power FM are of far greater importance than the severely limited benefits terrestrial digital promises but has yet to prove it can offer (para. 42).

The fact published in para. 43, about the F.C.C.'s 1997 elimination of 3rd-adjacent channel protection for full power *Grandfathered short spaced stations* proves the insincerity of the broadcasting industry's objections to LPFM based on interference concerns. The NPRM points out that this decision was *supported by nearly all parties*, including the broadcast lobby. It strikes sorely of hypocrisy that the existing broadcast industry should expect Low Power stations to abide by rules they themselves are unwilling to tolerate for their full-powered stations! As well, the other example of grandfathered short-spaced FM stations mentioned in para. 46 illustrates another embodiment of the same kind of hypocrisy.

It is absolutely critical and entirely fair-minded to relax interference standards for Low Power stations as stated in para. 44. It is increasingly obvious to us that the vociferous objections of the broadcast industry in terms of interference are for the most part disingenuous.

But what if the opposite were true, that these proposed Low Power stations would wreak havoc among the 100k sirens in our community? Under these circumstances, we would still tend to favor the rights of the new broadcaster over the party who has enjoyed exclusively this exceedingly valuable privilege in the past.

When a person checks out a book from the public library, they don't get to keep it forever; they must let others have a chance to borrow it. When a person lays out their blanket on the public beach, they are not reserving that spot in perpetuity -- they do not have the right to limit others from accessing that beach out of concern that someone might kick sand on their blanket. When driving on the public highway or walking on the public street, one is obliged to make room for the others who want to enjoy that property. Yet when it comes to broadcasting, why is it assumed that the rights of the party who has *all along* benefitted from the privilege automatically trump the rights of those who've *never* benefitted and not just today but for the rest

of eternity!?

In fact, to even question this logic is considered heretical! However, to the average Americans who've been kept off the airwaves in the past and suspect they will be kept off in the future, this dogma is wearing considerably thin.

In light of the above, we concur heartily with the statement in para. 45, that *Acreating opportunities for new LPFM service should outweigh any small risk of interference to and from LP-100 and LP-1000 stations.*≡ And we agree with the position in para. 46 that *Asmall amounts of potential 2nd and 3rd channel interference . . . (are) counterbalanced by substantial service gains.*≡

However, we also agree with the sum of the positions stated in para. 50, that because of the *Aaggressive efforts of existing broadcasters to maximize service,*≡ the agency should not *Aextend reduced 2nd and 3rd adjacent channel protection standards to full power FM stations.*≡

We have already amply stated our objection to IBOC terrestrial digital. So we are especially concerned about language used by the F.C.C. which implies that the decision has been all but already made B although there has been virtually no public debate and little examination of competing technologies. The future ramifications regarding terrestrial digital overwhelm those of Low Power FM, yet in comparison LPFM has been subjected to far more intensive scrutiny, both public and administrative. This situation needs to be corrected before IBOC or any other system is even considered for implementation.

In fact, we are reminded of Commissioner Furchtgott-Roth, who complains about MM Docket 99-25 that the agency is becoming *Aan advocate instead of a neutral decision-maker . . . I believe that, if we are to enjoy the appearance of fairness in the rule-making process we should not use government funds to promote a particular result prior to even the issuance of an NPRM.*≡ It is somewhat ironic that we share these exact concerns B except in regards to the F.C.C.'s handling of IBOC! Para. 49 clearly and repeatedly assumes the eventual adoption of IBOC. We hope Commissioner Furchtgott-Roth will not be selective in his legitimate

criticism of unfair agency advocacy.

Again, since the benefits of Low Power radio are so overwhelmingly superior to the mere promises of IBOC, regarding para. 49 we strongly disagree with the conclusion that Low Power radio should not be adopted until proven compatible with IBOC. With utmost emphasis, we insist the opposite is true. Given a choice between a negligibly clearer signal or even one new community station B we choose the latter.

We support the idea of *Tight spectral masks* as mentioned in para. 48 B but for all broadcasters. And as stated, with the long history of several hundred short-spaced full-powered translators operating without interference for many years, we feel it is disingenuous for the broadcast lobby to object to eliminating 2nd channel interference protection for LPFM stations. Para. 48 is correct when stating that the low ERP levels proposed for LPFM stations, together with a tight spectral mask should significantly reduce the potential for harmful interference even if 2nd-adjacent channel interference protections are not adopted.

It should also be entered into the record, when discussing potential interference from LPFM, that community radio supporters found it exceedingly difficult to hire a Professional Engineer at any price who was willing to buck the industry and risk blacklisting by performing a receiver study to contrast that being prepared by the N.A.B.

We ask why, under the circumstances, the F.C.C. does not consider it important to conduct its own studies, which would be much more likely to be objective and honest, especially considering the broadcast lobbies' repeated public statements that they intend to use their study, not to answer questions about interference, but to defeat LPFM.

It is under this grossly distorted playing field (with the weight of cold hard cash serving as a *black hole*, not letting even light itself escape) that the debate over community radio has taken place. Only one side can afford to fly in to Washington and state capitals dozens of their lobbyists at a time and consistently. Only one

side can afford to maintain a monolithic edifice and so close to the F.C.C.'s offices. Only one side can produce campaign contributions calculated to make a Congressman faint on the spot. Only one side has the economic influence to strike fear into P.E.s from one border of our nation to the other. Any fair consideration of LPFM must take this reality into account.

Ironically, it is the other side, the side which favors LPFM, which has the overwhelming support of the public. Hopefully that still counts for something!

10.c EMISSIONS & BANDWIDTH

We encourage efforts to maximize the number of available licenses through bandwidth limitations. In fact, it should be the goal of the agency to minimize the existing bandwidth allocations of all broadcasters, including full-powered, in the public interest of satisfying the public demand for stations. The impressive technological advances of the past decades render 200k spacing obsolete, especially when tens of thousands of Americans are demanding licenses. The F.C.C. ought to begin requiring higher standards and better selectivity for receiver manufacturers immediately so that the impressive benefits of a narrowed bandwidth system will one day be enjoyed. If Americans were told that the technology readily exists to allow 200 channels in the space of 100 (or perhaps even more with a superior terrestrial digital technology), they would demand the F.C.C. facilitate the changes.

The one concern regarding a more narrow bandwidth for LPFM is that of stereo broadcasting, as referred to in para. 56, which is absolutely essential to our needs.

We would accept agency certification requirements for LPFM transmitters.

10.d OWNERSHIP & ELIGIBILITY

Local control is the crux of the need for Low Power FM. We propose it is the fact that the people who own Detroit's radio stations don't live in Detroit which explains why they also feel no particular or personal connection to our city. We certainly don't feel like we are a part of the city where they live -- why should we think they know and understand Detroit? The problems associated with absentee landlords in the real estate industry are instructive in this regard.

The value of the unique characteristics of Detroit music is most immediately apparent to the residents of Detroit (as of course is true respectively about every other city and community on the planet). The first to see the importance of promoting Toledo's unique cultural characteristics, for example are not too surprisingly the people who come from Toledo!

Radio station owners who live in Detroit will be far more inclined to at least consider these kind of intangible values. Those who don't live here but merely profit off our airspace don't ever see the intangibles, blinded as they are by the bottom line.

We feel strongly that LPFM licenses should be restricted to one-per-owner. In fact, this sounds like a perfect way to allocate full-power licenses as well! If at all possible within the framework of the Constitution, owners should be required to live within the broadcast range of their station.

We also support a policy of restricting licenses only to parent companies, parent non-profits or, in the case of individual applicants, the principles. We object to the granting of LPFM licenses to subsidiaries, affiliates, franchises or agents of any kind. We also object to the granting of LPFM licenses to large non-profit institutions, and annual income and asset thresholds should be established for this purpose.

No existing broadcasters should be permitted to apply for or possess LPFM stations. No one should be allowed to own either a telephone company, cable TV company, broadcast satellite company, large or medium newspaper, TV station, large scale web service or any other form of mass media *and* an LPFM station. The goal of LPFM should be to give voices to the voiceless -- as many as possible.

Commercial LPFM licenses should be restricted to individuals or businesses meeting the Small Business Administration's definition of a small business. In fact, we wonder if the S.B.A.'s definition is already overly broad. The principal office of such businesses must be within the broadcast range of the station.

Also, the sale of LPFM stations must be limited to parties which meet these criteria. As well, there should be no sales or transfers of LPFM licenses.

We feel very strongly that the concerns stated in para. 58 are groundless, and we are suspicious about the attempt to create a *back door* through which the broadcasting titans could gain control of LPFM stations. We agree that it is important, through tight ownership and participation restrictions, to ensure that LPFM is not *compromised or subsumed by existing stakeholders*. If *individuals and entities with valuable broadcast experience* really want to *contribute to the success of the service* -- they can always write a book! And the idea of allowing those with an *attributable involvement in broadcasting to establish LPFM stations in communities where do not have an attributable interest in a broadcast station* is again, unacceptable. The whole purpose must be to empower more Americans, new Americans *not* to give even greater power to that slim minority who already control the media! As well, we are highly suspicious of the *cooperative arrangements* mentioned in para. 59.

We appreciate the desire to find ways to assist novice broadcasters, rather than other trends and patterns which suggest an elitist desire to limit participation. However, a much better approach would be for the agency to create a department which would serve as a broadcasting parallel to the S.B.A. How beneficial it would be for the agency to provide staff which could work with novice broadcasters, thus negating any need

for Acoaching≡ from those with full-power licenses. One can envision a communications commission which presented seminars, published books and pamphlets, established databases, and provided expert advice to novice broadcasters -- this vision would best represent such an institution that truly held the *Apublic interest*≡ as its *Abedrock principle*.≡

Regarding the concerns in para. 59 as to Congress= intent concerning ownership limits as demonstrated in the 1996 Telecommunications Act, we feel it is impossible for Congress to have expressed any relevant implications of intent about an entirely unique system that wasn=t even under consideration at the time. If Congress would now like to go on record with its opinions about community radio, that is its prerogative. Having failed to do that, and dealing with an entirely new and singular set of circumstances, it falls to the F.C.C. to decide the matter, at least for now.

We would also like to point out how much appreciation we would feel if Congress had as much concern for the opinion of the American public B the basis of its own authority B as the F.C.C. does for its own source of authority. History does not paint a pretty picture when describing Congress= role in passing the 1996 Telecom Act. When were we ever asked what we thought about it? How much input into the writing of that bill was provided by the American public, and how much by the broadcast lobby? The recent anguished cries from members of Congress over not being consulted by the F.C.C. fall rather flat before the American public, with whom Congress rarely feels a need to consult.

We are more concerned than the agency in terms of national ownership of LPFM stations (para. 60-61). Therefore we continue to demand a limit of one station per owner. And the *Acertain efficiencies*,≡ referred to in para. 61 regarding full-power stations -- of which we remain doubtful anyway -- are not applicable for LPFM.

We favor residency requirements, and are in doubt of the agency=s *Along recognition*≡ that residency does not affect *Alocal needs and interests*.≡ However, we also understand the difficulties inherent in monitoring

such a requirement. Enforcement does not seem to be a problem, though B simply revoke the licenses of those who don't follow your rules! In any case, by the F.C.C.'s own estimation, demand for LPFM licenses would seem to preclude the agency's concerns about *Ainefficiency* as a reason not to adopt residency requirements.

We would support owner/management integration as referred to in para. 62. if it is possible.

Inasmuch as we strongly favor local residency requirements, we would also oppose alien ownership of LPFM stations.

We sympathize with those non-commercial broadcasters who are concerned about the predatory practices of certain religious broadcasting networks seemingly intent on grabbing as much as possible of the available spectrum for themselves.

We also express concern that should a strictly non-commercial LPFM service be adopted, it not be limited exclusively to non-profit corporations, but also to non-profit unincorporated associations.

We address *Acharacter qualifications and unauthorized broadcasters* in Section 7 *Amnesty* above. We repeat our most urgent demand that the unlicensed broadcasters responsible for initiating this historic and wonderfully democratic proposal to re-legalize community radio be given their place at the table, and be allowed B at the very least B equal consideration when it comes to allocating licenses. Far from a character deficiency, they have demonstrated a surplus of character.

10.e SERVICE CHARACTERISTICS

10.e.i Local Programming

Local content and programming is at the heart of our concerns about radio. For the *Michigan Music Campaign*, a new service of small stations which simply duplicated, or actually rebroadcast the same material as one finds on the full power stations, would defeat the whole purpose! In fact, it's hard to imagine how any other parties in the Metro Detroit area would be served by such a situation.

We would like to stress the difference between local content and local programming, although we find both to be highly desirable. For us, there is nothing to be gained with local programming if the locally-based DJ is simply playing the same music of the superstars heard on the full power stations. And we want low power stations that will play locally-created music! We understand that local content regulations are not being proposed, and that such regulations would involve some very difficult Constitutional issues in any case. However, we feel it is important to enter into the record an accurate understanding of our position.

On the other hand, we find it difficult to see how the agency could enforce and monitor a local programming requirement. At best, we would suggest a self-policing system of mandatory filing of broadcast logs. Also, local volunteer non-governmental broadcasting authorities could be empowered to perform spot-checks. Finally, performance could be measured by the presence or lack of filed complaints. In any case, we suspect that most of what we desire from LPFM will be satisfied naturally and without the need for burdensome regulations.

10.e.ii Commercial Programming

We find it difficult to come to a consensus on the matter of whether LPFM should be strictly non-commercial, or whether commercial stations should also be allowed. The comments contained in this section are at least slightly contradictory, reflecting the lack of a complete agreement on the fine points we discuss.

We appreciate the reminder by the Prometheus Project, however, that commercial free speech is considered secondary to civic free speech in this country.

In general, we are in agreement that the fundamental question is one of magnitude; that is, big-versus-small. The primary goal of LPFM must be to lower the broadcasting threshold so a broader range of Americans can participate. This is an important part of why we insist that LPFM licenses be limited to one-per-owner.

In the specific case of the *Michigan Music Campaign*, what little relief we've found in terms of gaining airplay for locally-created music has almost always come from small stations: unlicensed stations, college and high school, and the smallest of commercial stations.

Certainly there are many problems with the state of non-commercial broadcasting in this country. For one, the influence of under-writing continues to grow more serious with one result it being more and more difficult to discern the difference between so-called Apublic≡ and Afor-profit≡ broadcasting. Jests such as ACorporation for Petroleum Broadcasting≡ carry an ironic ring of truth. Also, as public broadcasting has become increasingly institutionalized, it has also become more top-heavy, top-down, and top-detached from the local community. Our experience with general managers and program directors at local stations left us with a perception that undemocratic attitudes reign supreme at the top of both public and for-profit stations. The current battle over control of the Pacifica Foundation, Inc. is also worth considering in this regard. Of course, the influence and potential for influence of advertising dollars over programming is a great concern regarding commercial broadcasters too, especially in terms of how it affects news coverage.

And, in terms of commercial stations, it is impossible to fail to recognize how market forces have created so many of the things we dislike and find intolerable about radio. It is the paralyzing fear of a

slip in ratings that:

** Drives program directors in the race to the bottom to broadcast ever-lower toilet humor from publicity-hungry and aggressively obnoxious DJs;*

** Renders them incapable of airing music that hasn't already been heard a thousand times before by artists everyone has grown tired of decades ago;*

** Blinds them to music created within their own broadcast range; makes them susceptible to payola and other forms of inappropriate influence;*

** Drives from their mind any concern over the public interest, etc.*

For the listener, there is the occasionally clever and cute commercial B but more typically to be subjected to endless repetitions of the same corporate jingles surpasses the tortuous! For LPFM to emulate any of this is a rather disheartening prospect.

We agree with the Amherst Alliance's assertion that commercials on LPFM stations would probably, as a result of competition, lead to lower advertising rates on full power stations in the area. In a broader sense, we agree that a new avenue for local advertising through LPFM would probably lead through enhanced competition to lower prices on retail goods and services in our area.

We also recognize and appreciate the claims made by many would-be broadcasters in our area who feel that the ability to air commercials would be an essential factor in the successful operation of their stations.

It is clear to us that many would-be LPFM broadcasters in our area would like to operate their station as a small business. They want to dedicate themselves to broadcasting, not as a hobby and not always as a mere

occupation B for some it would be nothing less than a lifestyle! We must find a way to make that happen, while at the same time allowing them to generate a sufficient income for living expenses and raising a family.

Some have suggested it would be possible for these parties to operate as *Not-for-profit* entities, while still drawing a salary. As non-commercial stations, they would be unable to air actual commercials and would be limited to under-writing and other forms of fund-raising. Our would-be broadcaster friends are not interested in issuing stocks or dividends, or other speculative matters. They simply want to broadcast for a living. If this is true, we might be willing to accept strictly non-commercial status for LPFM stations. However, the model as described above, must fit in with whatever non-commercial regulations the F.C.C. deems necessary to apply. These stations do not need to be operated in the benefit of stockholders -- and in fact should not be operated for such purposes. But some operators should be allowed to generate sustenance income from LPFM.

We do not see significant difference between whether LPFM stations conduct fund-raising through commercials, underwriting, audience donations, bake sales, etc. In fact, we would tend to prefer a flexible approach which would allow station owners a range of options so that they may find what works best for them. We feel that the potential for corruption through commercialism at LPFM stations is insignificant when compared to full power stations. And we agree with the Amherst Alliance's conclusion that relying on grants from foundations is not necessarily likely to produce a greater level of station independence and objectivity than relying on advertising dollars. We agree with the Amherst Alliance's assertion that the F.C.C. should limit the degree to which any LPFM station may rely upon any single institution for loans, grants, advertising revenue or other forms of cash flow.

We would be willing to accept the C.D.C.'s recommendations that if advertising is allowed, it should be run-of-schedule, not program specific, and be subjected to time limits. We also accept the C.D.C.'s recommendation that local businesses which intend to use their station primarily to promote their own non-broadcasting commercial enterprise, be disallowed access to LPFM licenses.

The other broad group whose interests must be considered is that of the small advertiser. One serious problem affecting Metro Detroit in regards to existing commercial full-power stations is the fact that the cost of advertising has grown out of reach of many if not most small businesses. Further, so-called *Amust-buy* contracts, where advertisers are required to buy space on several collectively-owned stations in order to advertise on any, only make the situation worse. Finally, the broadcast range of most full-power stations is simply too large to be efficient for small advertisers B who is going to drive 15-50 miles to go to a laundromat or a coffeehouse?

Also, many local businesses tell us that they don=t want their options limited to simple underwriting B they want to be able to say how much a pound of ground beef costs today.

We are reminded that just as *Anot-for-profit* or *Apublic* broadcasters are not always perfect, the small-business entrepreneurs who might operate or advertise on LPFM stations should neither be granted automatic sainthood simply on the basis of their being small. Of course, there are few guarantees in life about anything. But, granting for the sake of argument that small business owners could be as susceptible to corruption and misdeed as the large versions, we think the point remains that small businesses offer many unique benefits. Small businesses are by nature usually more responsive, more adept at filling niche needs, more in touch with local communities. And it should be obvious to all that small businesses have been largely squeezed out of the broadcast industry, with the result that our communities fail to enjoy completely those kind of benefits described. For this reason, we look hopefully to LPFM to help small business owners B as station owners or advertisers -- to provide the unique benefits they offer to our communities..

10.e.iii Public Interest Programming/Operating Hours/Etc.

We agree with the agency=s assertion that all primary-status stations should comply with existing public interest programming requirements (Part 73). As we favor primary status for LP-100 as well as LP-1000, we

would extend the agency's proposal to apply these requirements to both tiers of LPFM. We agree with the agency in terms of these requirements being overly burdensome for microradio stations.

We agree with the F.C.C.'s assertions in para. 73 regarding *Other Service Rules*, except that, again, if LP-100 stations are granted primary-status as we strongly request they should also be subject to the bulk of Part 73 rules.

Regarding para. 76, it would be a shame if even one of the precious few LPFM licenses to be allocated in the Metro Detroit area were not used in a meaningful way. Therefore, we strongly support a minimum number of broadcast hours per week, along with the Two-thirds rule. The minimum number of hours-per-week should be as high as possible, perhaps 120 or more. If there are competing applications for a frequency, a higher number of proposed operating hours would be one valuable criteria to consider in determining preference. We feel (para. 77) that these minimum hours should apply to all stations, LP-1000, LP-10, and microradio, in light of the fierce competition expected for these licenses in our area. Again, the simplest way to administer such a system would be through the mandatory filing of broadcast logs, indicating hours on the air and explanations for any situation which made it impossible for the station to maintain its minimum broadcast schedule. Local volunteer non-governmental broadcast authorities could serve as secondary watchdogs.

Licenses should be easily affordable, and non-commercial licenses should continue to be free. Renewal of LPFM stations should first be based on lack of competition for the license, at least for micro-radio and LP-100, where the initial cost of such stations would be relatively low, pro-rated over the length of the license. On the other hand, we understand that this approach will be more difficult for LP-1000 stations. A four or five year term of license seems appropriate. Para. 83 is correct in urging finite, non-renewable licenses for micro-power and LP-100 wherever there is competition for space on the dial. Disruption of service to the public could be easily minimized by a coordinated transitional broadcasting schedule worked out between the two stations. Similar solutions could be applied to assist the retiring station in an orderly closing of business.

In regards to para. 84-85, the statutory demands made by Congress in the past could hardly be held

applicable to an entirely new type of service, with unique ramifications Congress certainly could not have considered or predicted. Section 309 was written in mind of stations that today demand an investment in the millions of dollars, while LPFM stations will typically require an investment in the thousands of dollars.

Financial stability regulations for full power stations should not apply to LPFM.

Ultimately however, these dilemmas and so many others all point to the obvious and urgent demand on the agency to create many more opportunities. All avenues in this regard must be exhausted (see Section 6 *Spectrum Availability Analysis*)

We agree that construction permits should be as short as possible and should under no circumstance be transferable. The problem of speculative applications and trafficking in such permits has been nothing short of excruciating for many of those seeking licenses in the past, and indeed this serious problem is behind much of the driving force of the movement to re-legalize community radio. We feel that 18-month construction limits for LP-100 and 12-months for micro-radio are probably too long. Because of the nature of the service, we question how many of those operating these stations will feel the need to actually build a studio on vacant land. More likely, these stations will be housed in pre-existing community centers, houses, apartment buildings, rented offices and warehouses, etc. In fact, this seems rather obvious in terms of micro-radio. Nor will antenna construction be nearly as involved as for larger stations. Therefore, we prefer a limit of 12-months for LP-100 and six months for micro-radio. We agree with a relatively strict enforcement of construction permit deadlines, such as described in para. 81.

Regarding para. 86, a one-to-an-owner license allocation plan would be the best, fairest and simplest way to eliminate speculative applications and the marketing of construction permits.

All LP-100 and LP-1000 stations should be required to participate in the Emergency Alert System, with an exception made for micro-radio stations. Hopefully some form of financial assistance can be provided to make it easier for LP-100 and LP-1000 stations to participate in the EAS. Avenues should also be explored

to make it easier for micro-radio stations to participate.

We fail to see any way our local population would benefit by having an LPFM station=s status identified through it=s call sign.

We agree with the station inspection rules described in para. 89 for LP-100 and LP-1000 stations. However, we feel strongly that micro-radio stations should be granted an exception. First, many of these stations will be based in people=s homes -- it will not make much sense to buy property and build a station for a five-watt station which will lose its license to a competitor in four years. Few, if any, of these stations will be operated as businesses. They (unlicensed versions) have historically served in severely economic depressed areas by giving the underclass a vital and urgent means of communication on the most controversial of matters, such as police abuse and brutality. Under such conditions, such an open-ended inspection policy is overly intrusive and should be abandoned in favor of scheduled inspections. A station=s signal can be monitored outside of a locked door, after all, and that is sufficient for stations of this size. As well, their public file can be posted on the Internet.

10.f LICENSE APPLICATION PROCEDURE

A system of mandatory electronic filing of license applications will clearly be obstructive to some, and especially some of those who have the greatest need for LPFM. However, we suspect the F.C.C. is correct in anticipating hundreds or thousands of applications. Indeed, the experience of LPTV and also the number of

requests for LPFM licenses in 1998 alone suggest there may be hundreds of thousands of applications! Under these circumstances, it seems obvious that an electronic filing system has, by far, the greatest capacity to be fair to the greatest number of people. As well, we put great value in the benefits described by such a system in para. 95; of eliminating the need for an engineer, assisting in determination of HAAT, etc. Anything that will make it cheaper and easier for average, typical Americans to participate in broadcasting should be pursued.

We find it difficult to reach a conclusion as to what is fairest, regarding windows vs. *first-come-first-served* (para 96-102). However, experience has shown the need to reduce the number of competing applications. Perhaps there should be an initial short window period upon the introduction of LPFM, followed by a *first-come-first-served* policy in the future. Again, the first and best solution is to expand the number of potential licenses by whatever means necessary.

In any case, we completely reject the use of auctions to settle mutually exclusive applications. We agree with the Amherst Alliance's assertion that auctions are probably in violation of the 14th Amendment. The way these LPFM stations, unlike their full-power relatives, are dispersed should not be decided on the basis of who has the most money. At the very least, should auctions be imposed, they should be weighted based on priorities such as those described below.

The potential conflicts described in paragraphs through 108 could often and best be resolved, perhaps, by way of local volunteer non-governmental broadcast authorities run by local radio enthusiasts, with the F.C.C. acting as forum of last resort to resolve any remaining conflicts.

Competing applications (para. 103, 106, 108) should be compared on the basis of a number of purely objective public-interest criteria: maximum operating hours, non-commercial over commercial status, a preference for local programming, a preference for under-served formats or type of stations, a preference for stations providing public-access programming, etc. Another possibility would be for stations to demonstrate a preponderance of community support and demand by way of petition, etc. Finally, some form of lottery could

be used to resolve any remaining conflicts.

We oppose the Aletter-perfect≡ standard for resolving conflicts as being irrelevant.

Again (para. 104-105), the intent of Congress as to the regulation of an entirely new radio service with entirely unique circumstances cannot be derived from what are, by telecommunications standards, ancient statutory principles. Congress must address LPFM before one can draw conclusions as to what Congress intends. In fact, by way of providing exceptions for *Acertain public safety noncommercial services and for certain digital television services and noncommercial educational or public broadcast stations,*≡ if anything, Congress has made it clear that auctions are simply not appropriate in every situation. Thus, it seems obvious that no conclusive determination can be reached on the matter of the intent of Congress regarding auctions for LPFM.

11. ALTERNATIVE PROPOSALS

We believe there would be significant interest in a so-called AEvent Service≡ in Detroit, and that the agency should consider this possibility.

We support the creation of local volunteer non-governmental broadcasting authorities, or Local Self-

regulatory Organizations (LSRO) as they are referred to by the C.D.C. In general, we support the C.D.C.'s proposed framework for such bodies. However, we share the Amherst Alliance's concerns about these bodies, and would suggest the exploration of means to ensure such bodies do not become ideologically-motivated or prejudiced towards certain styles and modes of operation. It is crucial that these bodies serve only as a primary forum for dispute resolution, and that dissatisfied parties always have the final option of taking their concerns to the F.C.C. itself where there is at least some guarantee of democratic accountability. We also agree with the Amherst Alliance that participation in such LSROs be voluntary and that parties are neither punished for choosing not to participate, or rewarded for their compliance.

We applaud the efforts of the Amherst Alliance in stretching the technological envelope by way of their research into Light wave or infrared broadcasting and express amazement at this example of unquenchable human imagination and resourcefulness!

We support the microKind Radio San Marcos proposal of the creation of local community access stations for parties which would like to broadcast but are unable to start their own stations.

We are impressed with the Amherst Alliance's proposal for Broadcast Coverage Areas to increase in size as population density decreases, and their justification for such a proposal.

We support a low-power AM service for areas where no LPFM channels are available.

If there is one thing that every party in this procedure agrees on, it is that, given the current regulatory scheme, there is very little spectrum space available in many major markets. We examine some possible ways to increase that space and use it more efficiently in Sec. 6: *Spectrum Availability Analysis* above. We would like to enter into the record some other ideas for creating room for community radio. We hope these ideas are welcomed and considered not only at the F.C.C. but by our elected officials in Congress.

We suggest making *Renewal expectancy* for all licenses, full-power and LPFM, applicable only when there is no competition for the license. We suggest instead the *Library* model; where a party checks out a license just like a book but they are not allowed to keep that piece of public property in perpetuity, forever disallowing its use by any other purportedly *Equal* members of society. It is jarring enough to find that our rights are meaningful only until they come into conflict with the rights of the wealthy. How explosive then, it is to learn that this inequity is preserved until the end of time! Para. 21 and others make it clear that our right to a share of the dial is secondary *with respect not only to existing, but also to future full-service radio facilities.* There is no point in waiting for our fair turn -- because it is never coming!

While some parties have enjoyed an exclusive privilege of operating enormous full-power stations for many decades, others who would also like to use those spots on the dial have been and remain completely denied. Why not confiscate the licenses of some existing stations in order to correct this grievous injustice? We wonder how many LPFM stations we could fit in our area given the elimination of a few existing full-power stations.

We support or are intrigued by alternatives suggested by microKind Radio San Marcos, including;

An investigation by the anti-trust division of the U.S. Justice Department to confirm monopoly takeover

No corporation shall be allowed to own any type of FM license.

Reduce all FM licenses, commercial and non-commercial, to 100 watts.

No station owners outside the community of the station of origin.

In every other model of public property which comes to mind, one finds examples of authorities working to make it easier for people to use that property (librarians, life-guards, police, city councils). Radio, where the

F.C.C.'s function over the last 70 years has been in effect to keep almost everyone *off* the air, is a rare example of the opposite.

* Imagine if our public beaches were operated in such a manner that only the rich and famous could use them, that the sand they select for their towel is reserved for them alone until the end of time, and that they could keep everyone else off the public beach merely by complaining about potential *interference* from people kicking sand on their towel.

* Imagine if our public highways were reserved only for those who drive Cadillacs, and that individuals held permanent domain over their own private lanes. Imagine if the role of traffic cop was not to keep everyone driving at a safe speed *B* but to keep most of us off the roads entirely!

* Imagine if public sidewalks, public parks, etc., were regulated in a way, as are our public airwaves, that allowed sole access to a tiny minority!

The result of this desperately dangerous state of affairs is that if one should ask the average American, *Who owns the airwaves?* that question would probably be answered with a dull stare. (Detroit may be the exception to that rule following our efforts of the past few years, but this was certainly the typical reaction we encountered when we started.) In fact, you will find many convinced in their heart *B* and ready to debate *B* that the airwaves are *not* public property! Well, why shouldn't they think that? There is very little *public* in the public airwaves today!

Commissioner Furchtgott-Roth suggests, as have others, a number of alternatives to LPFM to support his claim that LPFM is unnecessary. This is nothing but a different version of the *separate-but-equal* argument that black children can be required to attend separate public schools so long as the schools

represent a viable opportunity for their education. In this case, the Commissioner argues that *Acommunity participation*≡ can be achieved through public-access cable, the Internet, e-mail, etc., and thus the agency can justify barring the public from the public airwaves.

Of course, by this logic, the Supreme Court also ought to be able to ban the publication of independent books and magazines B after all, people are able to express themselves on a milk crate in a public park, so why do they need to write, publish and read too? The Supreme Court, not too surprisingly, has tended towards the opposite approach -- that the government must present a powerful interest when acting in prior restraint of communication and expression.

However, for the sake of argument, we would like to examine the list of options the Commissioner (apparently in sincerity!) offers us:

* *AExtant commercial or noncommercial licenses*≡ are either not available in our area or are entirely unaffordable.

* *APurchase of air time on broadcast properties*≡ limits our only option to purchasing what we otherwise ought to be able to share. How odd a concept it is to *Apurchase*≡ from a private party the use of space on the airwaves that already belong to us!

* *APEG cable schemes*≡ are largely being abandoned by the cable giants as a result of deregulation and the emergence of cable *Acompetition*.≡ And even before, by the nature of the public access programs, it was financially unfeasible for producers to promote their shows in any meaningful way in order to build audiences.

* *AAmateur radio*≡ is the equivalent of standing on a milk crate, but in an alley rather than the public park.

* *AE-Mail*≡ is not much good for music, is it?

* *Internet home pages*≡ require a home, electricity, a computer, a phone line, software, considerable training, a modem, monthly charges, not to mention a fair amount of free time. People can enjoy the radio virtually anywhere without any of those things. On the other side, Internet broadcasting is extraordinarily expensive, with a setup capable of handling a few hundred simultaneous listeners easily costing \$25,000 dollars. In comparison, a five-watt micro-power station which costs \$300 might be able to reach ten thousand listeners.

* *Bulletins and flyers, and even plain old-fashioned speech.*≡ When bulletins, flyers and *Aplain old-fashioned speech*≡ are good enough for Westinghouse, they will be good enough for the rest of us mere citizens too. Until the broadcasters are willing to invest as much confidence in these alternatives -- by actually surrendering their licenses in order to devote themselves exclusively to bulletins and flyers B as does the Commissioner, then we are unwilling to surrender without a fight any opportunities for expression. We are still waiting to hear one good reason why we should even consider abdicating one right simply because we also happen to hold another.

To the extent that the Internet is truly democratic B we are delighted. Let that aspect of the Internet serve not as a replacement but as a model for LPFM.

In this way, the intrinsic advantages and benefits (not ignoring their obvious limitations) of each of the modes of communication offered by the Commissioner should serve as inspiration towards creating the best possible LPFM service. For example, one benefit of simple flyers is that copy machines are relatively accessible and easy to operate. So we should design an LPFM service with those goals in mind! What is it that we like about cable public access? Let=s use that for LPFM! This is a much more appropriate perspective for a public-

interest-minded F.C.C.

However, to actually try to use other forms of communication as a basis for denying LPFM is alarmingly wrong-headed, and directs the agency along the negative path of a creating policy based on limiting, rather than fostering, communication. It seems apparent that any kind of communications commission instituted by a democratic society ought to be involved in furthering communication, and not playing various forms of media against each other in the effort to circumscribe it. The Commissioner=s perspective is ominous in light of cherished democratic principles, and needs to be confronted as such.

12. COMMISSIONERS= COMMENTS

12.a WILLIAM KENNARD/GLORIA TRISTANI

There are some in this country who have enjoyed and profited from an exclusive privilege for so long they have become entirely blind to the rights of others. In fact, the rights of this select group have become so effectively sacrosanct in this country that conventional wisdom holds it to be futile to intercede against them on any issue. Further, the suggestion that they might consider learning to share that privilege with others is generally considered *Aradical*,[≡] and *Autopian*.[≡] This is an alarming state of affairs!

It is in this environment that we are so gratefully heartened by statements like (Chairman Kennard), that *AWe cannot deny opportunities to those who want to use the airwaves to speak to their communities simply because it might be inconvenient for those who already have these opportunities.*[≡]

We are sorry that our rights are *Ainconvenient*.[≡] But they are our rights nonetheless. And for them to be wholly denied is quite a serious matter. Our social fabric is put under great stress when the rights of any of us are unfairly denied.

Really, the abuse and invective showered on the Chairman over this issue is quite instructive, and illustrates clearly how far afield of the public interest the broadcast industry has sadly traversed.

The statement refers to the F.C.C.'s role as *Aguardian*[≡] of the spectrum. We fully support the F.C.C. acting in the model of a life-guard, whose job is to keep people from going off the deep end. Unfortunately, historically the F.C.C. has acted more like a security guard, whose job it is to keep people *off* the public airwaves altogether.

And the sentiment that *Awe will do our part to make sure that local radio is not left on the sidelines of the digital revolution*[≡] is a little vague, especially considered against other public statements reflecting a perhaps firmer commitment to IBOC coming from the Chairman. We ask the Chairman instead for *assurance* that he will not allow LPFM to be *Aleft on the sidelines.*[≡]

As we've gone from elected official to reporter to citizen, we've often repeated another vital quote from the Chairman,

ARadio has become the province of multi-billion dollar corporations . . . the loss of small religious stations and local programming is very unfortunateΨ ΨIn a society where most people get all their news and information from the broadcast industry, how can we have a strong democracy when the media is concentrated in the hands of a few people?Ψ These issues cannot come down to a battle between the rich and the very wealthy, as do so many of the battles we have in Washington. These issues are fundamental to our democracy.≡

We believe Commissioners Kennard and Tristani have a clear understanding of the problem at hand. And we are in substantial agreement over the best ways to solve this problem. We thank them for this historic step in advancing American democracy.

12.b SUSAN NESS/MICHAEL K. POWELL

Commissioners Ness and Powell express concern regarding interference and IBOC and, as we have made abundantly clear, these concerns are misplaced. The public demands LPFM -- not digital -- and even when it comes to terrestrial digital the public has expressed no interest in IBOC. The priority is clear, in terms of fulfilling the public interest. And no serious voice predicts significant interference from MM Docket 99-25. Our opponents cannot expect their interference demands to be taken in earnest when they don't even favor them for their own short-spaced translators! The consortium which is developing IBOC has stated it will not present interference that would affect LPFM.

In fact, as our opponents themselves have expressed, they are really worried that *Increased competition could over-saturate the market. Profits could deteriorate.* In essence, they admit by opposing LPFM they are conspiring in restraint of trade.

We find Commissioner Ness' experience of *Athe diversity of voices, which has so enriched the airwaves over the years* to be considerably different than our own. In fact, it is creeping homogenization which is making the radio experience so increasingly unrewarding.

We appreciate the votes of Commissioners Ness and Powell in favor of releasing this NPRM. And we appreciate their support of the concept of community radio. But even Commissioner Furchtgott-Roth supports the concept. Even Eddie Fritts supports the concept. But the concept is meaningless without implementation. For that to happen, choices must be made -- choices which will inevitably make someone unhappy.

We put it to Commissioners Ness and Powell to fulfill their duty by putting the public first. And the public has spoken loudly, clearly and consistently in favor of community radio. The demands of the corporate broadcasters, the one percent, must not be allowed to prevail over the rights of the 99%.

12.c HAROLD W. FURCHTGOTT-ROTH

There is very little in the statement of Commissioner Furchtgott-Roth with which we agree, and much of our disagreement is vehement. And there is simply far too much at stake to politely ignore the particularly offensive nature of some of his points and insulting language he uses. They must be addressed B with civility B but directly.

Even six sentences in he contradicts himself, and exposes his apparent insincerity. He first says, *Whatever new service can be provided would be something worth considering*, then only a few words later *It would hardly warrant the effort*. Frankly, we had hoped the consideration would have lasted a bit longer!

Well, if it was Mr. Furchtgott-Roth's rights at stake and not ours, perhaps he would not be so quick to dismiss them as *hardly warranting the effort*. But since we are the ones who will suffer should this rule-making be defeated, allow us to repeat that should Metro Detroit gain even a single community radio station from this effort, it will be a very important step in the right direction, and one well worth fighting for.

Where we agree at all with Mr. Furchtgott-Roth, it is that the NPRM does not go nearly far enough to provide for the number of community stations an area like Metro Detroit really ought to have. But if he is serious about providing *a new service*, why does he use this as an excuse to dump community radio altogether, instead of helping us look for ways to expand the opportunities? It is for these reasons we find the Commissioner's statement disingenuous.

Mr. Furchtgott-Roth seeks to protect the third- and second-channel protections even the broadcast industry fails to find important (at least when it comes to their translators). He senses a *severe incursion on the rights of current license-holders*, yet completely fails to recognize that the rights of other parties have been entirely denied! Clearly for the Commissioner this is not about interference, but protecting monopolies. In the Commissioner's world, we are the equivalent of peasants, committing a *severe incursion* by poaching in

the King's forest. The language of *Aincursion* certainly does not suggest a public-minded attitude towards the stewardship of the public airwaves. In fact, it sounds much more like the language used with private property.

As well, in the Commissioner's world, the market *Avalue* of licenses outweighs any possible value they might have for the community. All that matters in this view is how much money can be made from these licenses and not just for anyone, but only for members of a very private club.

The Commissioner may be correct that some junk receivers in existence might have difficulty in selecting small, community stations. However, receiver standards have been long overdue for an upgrade. Given such a reappraisal of standards one might well find that current technology ought to make 200k channel spacing absolutely quaint; thus providing space for the thousands of new community stations we all claim to support! In fact, with terrestrial digital around the corner, the existing receivers the Commissioner is so anxious to protect will all be obsolete in a short time anyway.

The Commissioner is correct in saying that many proponents hope LPFM will lead to an increase in broadcast ownership by minorities and women. Again, simply because there is no assurance of this result, he suggests we simply abandon community radio completely. Of course, there are few assurances about anything in life, and most of the decisions we make come down to a comparison of the odds. And we think it is obvious, based on demographic statistics certainly available to the Commission, that so long as stations cost in the millions of dollars, most of them will be owned by rich, white men. Conversely, the lower we are able to bring the entry point for broadcasting, the greater of a range of skin color, gender, religion, ideology, etc., we will find who qualify.

It is curious that the Commissioner cannot seem to bring himself to admit to finding even one meritorious argument in the 47-page NPRM. Far more alarming though, is his tendency to twist the very benefits of LPFM into arguments against its implementation. And time after time, simply because the NPRM fails to fix perfectly everything that is wrong with radio today, Furchtgott-Roth demands that LPFM be scrapped:

because too few stations will be created, because it makes no absolute guarantee of increased diversity, because Congress may impose auctions anyway, etc.

As expressed earlier, it is ridiculous on the face of it to suggest that statutory regulations passed by Congress regarding stations of a value at least one thousand times as great as LPFM stations should have any bearing on an entirely new and unique form of service of which Congress could have had no understanding at the time.

The Commissioner also attacks the proposed ownership regulations for LPFM because they *Awould ensure that no one with any actual experience in broadcasting could actively participate in these new stations*^Ψ *these stations may be pushed toward second-class performance and quality levels.*[≡] This is simply untrue.

Of the hundreds of thousands of people in this country with broadcasting experience, only those with a financial interest in an existing full-power station will be barred from LPFM. They can always sell their full-power station if they want to get into LPFM! But until there is room for everyone to have one, then there is no room for anyone to have two.

This paragraph reflects an unfortunate elitism that should be examined more closely. The Commissioner apparently perceives the broadcast world as a kind of country club which will be cheapened if forced to accept the poor people. First, we have already shown that people with experience will be welcome to participate; except that now they will get the chance to be the owner rather than perhaps an underpaid and underappreciated lackey at a full-powered station. Second, a more positive perspective would be to consider that those entering the broadcast world for the first time might actually bring something fresh and exciting into what is by anyone=s estimation a rather dull and formulaic industry. Third, this attitude ignores the crucial and consistent role played by amateurs in the development of the technology. Fourth, it assumes that existing broadcasters always present first-class performance and quality levels, which is hard to square with the preponderance of Howard Stern act-alikes. Fifth, it is one of the weakest justifications for acting in prior restraint of free speech we=ve ever heard!

Actually, this logic has its appeal when applied, for example, to the public highways. In that case and considering the dangers to self and others, there seems to be a clear interest in requiring that only the top expert drivers in the country ever be allowed to use our highways and roads. Perhaps the great majority of us should be required to limit ourselves to bicycles! Yet, instead society demands only a minimum standard of expertise, and considers the public health risks involved to be unfortunate but acceptable. In radio, where it is quite difficult to imagine anyone being killed or maimed by a simple mistake, we can certainly afford to require, again, only a bare minimum standard of expertise. And rather than wasting resources in the effort to keep people out of broadcasting, the F.C.C. would best serve the public interest by helping people to obtain knowledge and experience.

As abundantly expressed elsewhere, we are not at all opposed to terrestrial digital radio. In fact, we feel certain that an open investigation of the many terrestrial digital broadcast options will bring light on several possibilities that would enhance rather than limit the implementation of community radio. However, the F.C.C., as a result of nothing other than pressure from broadcast lobbyists, has become fixated on IBOC, which will limit the development of community radio while offering absolutely nothing of value to the American public.

Commissioner Furchtgott-Roth complains that the FCC has already made up its mind in favor of community radio and has tilted the scales even in advance of the NPRM. Of course, it is with IBOC, not LPFM, that all evidence points to the agency becoming *Aan advocate instead of a neutral decision-maker*. \cong IBOC is far from having been officially selected, and yet almost without fail the agency refers to its inevitable implementation. If Mr. Furchtgott-Roth is sincere about his procedural concerns -- and we believe his general statements about procedural issues are quite correct -- he ought to stand in protest of IBOC, not LPFM.

Perhaps most perplexing of all is his statement that perhaps *Athe substantial interest in and public support for this rule-making was not partly generated by the Commission itself with its web site page for low power radio*. \cong When this page was first created, for days it listed the wrong docket number for LPFM! That

might give an idea to what degree this very recent web-page *Acart*≡ has been drawing the LPFM *Ahorse*.≡ The movement for community radio goes back at least 15 years and the web-page is barely a few months old! Does the Commissioner not realize that thousands of Americans have been broadcasting without licenses over the last decade, and that his agency is shutting them down by the hundreds? Has he failed to see a single article of the thousands published in recent years? How does he explain the 13,000 requests for licenses received last year by the agency B before the web page was even created?! How can he possibly attribute any of the massive popularity enjoyed by community radio to a single web page out of tens of millions, and one that is very rarely even updated?!

The Commissioner also makes use of the *Aseparate-but-equal*≡ argument that *Acommunity participation*≡ can be achieved through public-access cable, the Internet, e-mail, etc., and thus LPFM is unnecessary. Of course, by this logic, the Supreme Court ought to be able to ban the publication of independent books and magazines B after all, people are able to express themselves on a milk crate in a public park, so why do they need to write, publish and read, too? We examine individually the alternatives offered by the Commissioner in Sec. 11 *Alternative Proposals*.

We restate:

ATo the extent that the Internet is truly democratic B we are delighted. Let that aspect of the Internet serve not as a replacement but as a model for LPFM.

In this way, the intrinsic advantages and benefits (not ignoring their obvious limitations) of each of the modes of communication offered by the Commissioner should serve as inspiration towards creating the best possible LPFM service. For example, one benefit of simple flyers is that copy machines are relatively accessible and easy to operate. So we should design an LPFM service with those goals in mind! What is it that we like about cable public access? Let=s use that for LPFM! This is a much more appropriate

perspective for a public-interest-minded F.C.C.

However, to actually try to use other forms of communication as a basis for denying LPFM is alarmingly wrong-headed, and directs the agency along the negative path of creating policy based on limiting, rather than fostering, communication. It seems apparent that any kind of communications commission instituted by a democratic society ought to be involved in furthering communication, and not playing various forms of media against each other in the effort to circumscribe it. The Commissioner=s perspective is ominous in light of cherished democratic principles, and needs to be confronted as such.≡

He goes on to claim that because of competition, the value of broadcasting *Ais less and less powerful,≡* anyway. In other words, the grapes he holds outside of our reach are sour anyway. Of course if this is as true as he suggests, we might expect the corporate broadcasters would be standing in line to turn in their licenses for their very expensive and *Aless and less powerful≡* stations. It is very hard to square the perception the Commissioner tries to create here with the reality of unprecedented consolidation and speculation gripping the broadcast industry!

As far as *Aadministrative drains,≡* the community radio stations, along the same lines as is happening with public access, want to police themselves. Local broadcasting enthusiasts are best suited for settling local disputes. The agency=s role should be to serve as the forum of last resort in settling disputes.

Although Congress may have determined that broadcast industry consolidation is good for America, Congress failed to assess whether that position squares with the seat of its own governing authority, namely the American public, which was largely and justifiably outraged upon learning what was exactly in the 1996 Telecom Act. Thus, the Act, drafted and passed in virtual secrecy, rests on an illegitimate foundation. The Commissioner wrings his hands and sighs that Congress forces the F.C.C. and that there is nothing he can do. In truth, it is apparent from other statements he really has no objection to consolidation anyway, regardless of

the effect it has in silencing more and more American voices.

Finally, one might attempt to reckon the arrogance of anyone who, hearing thousands and thousands public voices united in support of community radio and not a whisper in opposition coming from the public itself, can still find that community radio is not in the public interest!

Respectfully submitted by,

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Kristopher Trzcienski

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Derek Wagenschwanz, 64603 W 8 Mile Rd, South Lyon MI 48178

Daniel Wentworth, 51000 Mott Rd #181, Canton MI 48188

1-29-99

City of Detroit

A Resolution to Urge the Federal Communications Commission (F.C.C.) to Restore Approval for Low Power FM Radio Broadcasting

By Council Member Mahaffey

WHEREAS, in 1978, the Federal Communications Commission (F.C.C.) ended its licensing of low power radio stations (Class D broadcasting licenses to stations of less than 100 watts) reducing overall the number of locally-based radio stations in service to local communities. Since that rule change, other factors such as increased consolidation within the radio broadcast market has contributed to a significant reduction in the number of community responsive radio services; and

WHEREAS, Nationally, a grassroots movement has emerged for the purpose of advocating F.C.C. reinstatement of licensing of low power radio stations. Their efforts have resulted in a formal rule-making petition before the F.C.C., RM-9242, that would create opportunities for the return of locally owned and responsive FM radio stations for communities; and

WHEREAS, Re-legalization of low power radio stations would serve to increase local media presence and ownership, promote small business development and broadcast entrepreneurship, increase community choice and allow for communication services that are responsive to the needs of local communities;

NOW THEREFORE BE IT

RESOLVED, The Detroit City Council urges the Federal Communications Commission to restore approval for low power FM radio broadcasting. The Detroit City Council joins the Michigan Senate (SR234), the Michigan House of Representatives (HR379) and the many grassroots

organizations in seeking F.C.C. adoption of petition FM-9242 to restore low power FM radio broadcasting;

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the Federal Communications Commission, the entire Michigan Congressional Delegation and the City=s lobbyist, Nancy Barbour.

Adopted as follows:

Yeas B Council Members Cleveland, K. Cockrel Jr., S. Cockrel, Everett, Hood, Mahaffey, Scott, Tinsley-Williams, and President Hill B 9.

Nays B None.

1-25-99

City of Ferndale

Resolution

Moved by Councilman Porter, seconded by Councilwoman Kulick, to adopt the following resolution:

For many years, low power radio stations filled a unique niche in the communications needs of local communities. These operations, which used less than 100 watts of power, were licensed as Class D FM stations; and

In 1978, the Federal Communications Commission made a policy decision to stop licensing low power radio stations. This decision was based on concerns that low power radio stations were a hindrance to the orderly development of FM radio and a potential impediment to the efficient operation of facilities serving greater numbers of people; and

In recent years, the rate of consolidation in the radio broadcast market has increased. As a result, far fewer locally based radio stations have programming that serves their communities. These

concerns have prompted many people to promote a change in FCC policies. A petition of rule-making, which proposes the reestablishment of low power FM broadcast services, is currently under consideration; and

Allowing low power FM radio to return to the airwaves will achieve several worthwhile goals in communications options open to people in our country. These community radio services will increase the local presence in the media, increase diversity of ownership, provide more choices to the public, offer new opportunities in business, and promote communications that better reflect the character and needs of our communities.

NOW, THEREFORE BE IT RESOLVED, that we, Ferndale=s elected officials, encourage the Federal Communications Commission to restore approval for low power FM radio broadcasting.

BE IT FURTHER RESOLVED, that copies of this Resolution be transmitted to the Federal Communications Commission.

AYES: Council Members Porter, Paczkowski, Warshay, Kulick; Mayor Goedert.

NAYS: None.

Motion carried.

I, Lee Ann O=Connor, Clerk of the City of Ferndale, do hereby certify that the foregoing is a true and compared copy of a Resolution duly made and passed by the Ferndale City Council at a meeting held January 25, 1999.

Lee Ann O=Connor, City Clerk

2-4-99

City of Hazel Park

Michigan Music is World Class Campaign

On behalf of our Hazel Park Citizens, the Mayor and Council of the City of Hazel Park are in favor of the F.C.C. to re-legalize community radio and we support the adoption of RM-9242.

We believe it can improve access to our airwaves for all local residents without interfering with existing service. Radio is the most suitable of any media outlet to provide community access. It is relatively inexpensive to produce and is well-suited to cover community issues and local music.

We support this petition and believe we owe the public some access to the airwaves they own.

We hope the F.C.C. will consider RM-9242 favorable.

Yours truly,

Ben Colley, Mayor

Hazel Park

3-2-99

City of Hamtramck

Resolution In Support Of Community Radio

WHEREAS, "community radio" allows for a small geographic area, such as Hamtramck, to have its own voices on the air, including community-related discussions and locally produced music;

and

WHEREAS, community radio has been illegal since the 1970s; and

WHEREAS, starting and operating a modern-day radio station is prohibitively expensive (hundreds of thousands of dollars) for an individual or small business; however, the technology exists where a small radio station can be started and operated for only a few thousand dollars; and
WHEREAS, hundreds of community radio station have been operating over the past several years to support local musicians and local talent; and

WHEREAS, the Federal Communications Commission is currently in the process of accepting public input on the re-legalization of community radio, Mass Media Bureau's Docket No. MM99-25; and

WHEREAS, MM99-25 will not interfere with existing broadcasters, nor even reserve a portion of the broadcast spectrum for community service, but will simply allow community groups and business owners to apply for broadcast licenses, a right currently enjoyed by only the most wealthy and powerful groups in our society; and

WHEREAS, the Michigan Music is World Class campaign is actively involved in creating an awareness of the great music being produced in our state; and

WHEREAS, it is the Campaign's belief that community radio will be a boon to local economies, including the local music industry, by creating a demand for locally produced music that will benefit musicians, artists, manufacturers, record stores, music stores, and recording studios; and

WHEREAS, the Michigan Music is World Class campaign recently gathered 3,000 letters in support of HR379 and SR234, resolutions in the Michigan House and Senate in favor of community radio; and

WHEREAS, the Michigan Music is World Class campaign is asking cities and the State of Michigan to urge the FCC to re-legalize community radio via non-binding Council resolutions; and

WHEREAS, the cities of Detroit, Ferndale, and Hazel Park have already passed non-binding, City Council resolutions supporting the adoption by the Federal Communications Commission of MM99-25;

NOW, THEREFORE BE IT RESOLVED, that the Common Council of the City of Hamtramck go on record in support of community radio and urge the Federal Communications Commission to adopt MM99-25; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the Federal Communications Commission, to the Honorable Representative Carolyn Cheeks-Kilpatrick, and to the Michigan Music is World Class Campaign.

Adopted unanimously.

3-3-99

City of Ann Arbor

Resolution in Support of New Licenses for Low Power FM Community Radio

WHEREAS, the City of Ann Arbor is committed to the principles of free speech guaranteed in the First Amendment to the United States Constitution; and

WHEREAS, citizens of our community hold the broadcast airwaves to be public property and a public trust; and

WHEREAS, the Federal Communications Commission (FCC) has not made affordable, Low Power (<100 watts) FM broadcast frequencies available for community use since 1978 when regulatory changes eliminated Class D FM licenses for less than 100 watts of power; and

WHEREAS, the passage of the Telecommunications Act of 1996 has led to an unprecedented consolidation of broadcast industry ownership, and a marked decrease in both local and minority ownership of radio stations and origination of programming; and

WHEREAS, the rights of free speech and a free press are threatened when access to communications media is concentrated in the hands of the few; and

WHEREAS, the Ann Arbor community has already demonstrated its commitment to local access through its long-term and enthusiastic support for the local community access television, Community Television Network, and its local low power radio station, WCBN; and

WHEREAS, the FCC is now hearing public comment on a proposal to once again offer simple, affordable, commercial and non-commercial Low Power FM broadcast licenses(FCC's MM Docket No. 95-25); and

WHEREAS, commercial and non commercial radio stations operating under such a license could provide a community voice to individuals, musicians, artist, writers, activists, students, and points of view which are presently economically barred from access to their own abovementioned airwaves; and

WHEREAS, issuance of said licenses would constitute a net benefit to the social, cultural, and political life of Ann Arbor and its citizens, and

to communities across the state of Michigan and the U.S.;

Therefore be it Resolved, that the City of Ann Arbor supports the concept of Low Power radio stations, and urges the FCC to fulfill its mandate as guardian of a public resource, and to enact a licensing regulation to grant affordable, simple, commercial and non-commercial broadcast licenses to citizens of this and other communities in this country;

And be it Further Resolved, that the City of Ann Arbor supports the efforts of those who endeavor to advocate such regulatory change, and to enrich the life of our diverse community through legally establishing commercial and non-commercial public-access radio outlet;

And be it Finally Resolved, that copies of this resolution shall be sent to FCC Chairman William Kennard, to Michigan Senators Spencer Abraham and Carl Levin, Congresswoman Lynn Rivers, and to Ann Arbor's representatives in Lansing, with the request that they support the FCC's proposal to reintroduce Low Power FM radio broadcasting to our country.

Submitted by Council Members Daley and Kolb March 1, 1999"

Adopted March 3, 1999.

3-29-99

City of Howell

Resolution No. 99-07

WHEREAS, the Federal Communications Commission (hereinafter referred to as AFCC≡) stopped issuing new Class D broadcasting licenses, which licenses were for operations with use of 100 watts of power or less on FM bands;

WHEREAS, the ban on the issuance of Class D broadcasting licenses has been in force and effect over the term of the last 20 years, in part to prevent the orderly development of FM radio and potential difficulties to the efficient operation of those FM stations serving a greater number of people and with a considerably higher wattage;

WHEREAS, the concerns that were set out by the FCC in the past have not developed and as a result, a change in FCC policies has been requested by virtue of a movement to re-institute Class D licenses and /or community radio, otherwise known as low power FM radio service;

WHEREAS, the Howell City Council believes that the re-institution of low power FM radio service will be, in fact, a worthwhile public service providing diversity of ownership, public choice, business promotion and communications reflecting the needs and character of the community both in and surrounding the City of Howell.

NOW THEREFORE, BE IT RESOLVED that the Howell City Council requests and encourages the FCC to restore approval for low power FM radio service and/or broadcasting pursuant to the current petition otherwise known as RM-9242, as amended through the rule-making process.

IT IS FURTHER RESOLVED that copies of this Resolution shall be transmitted immediately by the City Clerk to the FCC.

Resolution passed this 29th Day of March, 1999

Paul F. Rogers, Mayor

Rebecca J. Ruttan, Clerk

4-14-99

City of Southgate

Moved: Underwood

Supported: Holmes

RESOLVED, that the Council hereby support the re-legalization of community radio and urge the F.C.C. to allow Class D licensing, as requested by Michael Landon, representing the Michigan Music is World Class Campaign, 2212 Philomene, Lincoln Park MI 48146

4-20-99

City of Wyandotte

By Council-member Sam A. Palamara

RESOLVED by the City Council that

WHEREAS, the FCC is receiving public comments concerning a proposal to reestablish low power broadcast services; and

WHEREAS, allowing low power FM radio to return to the airwaves will promote communications that better reflect the character needs of the local communities.

NOW THEREFORE BE IT RESOLVED THAT the City of Wyandotte encourages the FCC to restore approval of low power FM radio broadcasting.

BE IT FURTHER RESOLVED THAT copies of this resolution be transmitted to the Federal Communications Commission

Motion unanimously carried.

Resolution declared adopted.

Johnny A Kolokowski

Sam A Palamara

Mark A Paryaski

Martin J Shimkus

Patrick J Sutka

Christine Swiecki-Niewiarowski

4-21-99

City of Ecorse

Resolution No. 121.99

Moved by Councilman Hellar

Supported by Councilman Worthy

RESOLVED, That the Mayor and Council of the City of Ecorse urges the F.C.C. to re-legalize community radio.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the F.C.C., 1919 M Street NW, Washington DC 20554

Yeas: Councilmen Banks, Dalton, Worthy, Hellar, Moon

Nays: None.

Excused: None.

5-3-99

City of Trenton

WHEREAS, in 1978, the Federal Communications Commission (F.C.C.) ended its licensing of low power radio stations (Class D broadcasting licenses to stations of less than 100 watts) reducing overall the number of locally-based radio stations in service to local communities. Since that rule change, other factors such as increased consolidation within the radio broadcast market

has contributed to a significant reduction in the number of community responsive radio services;
and

WHEREAS, Nationally, a grassroots movement has emerged for the purpose of advocating F.C.C. reinstatement of licensing of low power radio stations. Those efforts have resulted in a formal rule-making petition before the F.C.C., RM-9242, that would create opportunities for the return of locally owned and responsive FM radio stations for communities; and

WHEREAS, Re-legalization of low power radio stations would serve to increase local media presence and ownership, promote small business development and broadcast entrepreneurship, increase community choice and allow for communication services that are responsive to the needs of local communities;

NOW, THEREFORE, BE IT RESOLVED, that the Trenton City Council urges the Federal Communications Commission to restore approval for low power FM radio broadcasting. The Trenton City Council joins the Michigan Senate (SR234), the Michigan House of Representatives (HR379) and the many grassroots organizations in seeking F.C.C. adoption of petition RM-9242 to restore low power FM radio broadcasting.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the Federal Communications Commission.

ADOPTED, APPROVED AND PASSED by the City Council of the City of Trenton this 3rd Day of May, 1999

Wayne G. Bieloff, Mayor

Kyle F. Stack, City Clerk

5-5-99

City of Taylor

Resolution No. 5.450-99

Motion by; Geiss

Supported by; Chorkaluk

WHEREAS; The F.C.C. is receiving public comments concerning a proposal to re-establish low power broadcast services; and

WHEREAS; Allowing low power FM radio to return to the airwaves will promote communications that better reflect the character needs of the local communities; and

NOW THEREFORE, BE IT RESOLVED; The City of Taylor encourages the FCC to restore approval of low power FM radio broadcasting; and

BE IT FURTHER RESOLVED; That copies of this resolution be transmitted to the Federal Communications Commission.

Ayes: Molner, McDermott, Ettore, Geiss, Chorkaluk, Riley

Nays: none

Absent: Bzura

Unanimously adopted

5-17-99

City of Mt. Clemens

WHEREAS, the Federal Communications Commission (hereinafter referred to as AF.C.C.≡), stopped issuing new Class D broadcasting licenses, which licenses were for operations with use of 100 watts of power or less on FM bands;

WHEREAS, the ban on the issuance of Class D broadcasting licenses has been in force and effect over the term of the last 20 years, in part to prevent the orderly development of FM radio and potential difficulties to the efficient operation of those FM stations serving a greater number of people and with a considerably higher wattage;

WHEREAS, the concerns that were set out by the F.C.C. in the past have not developed and as a result, a change in F.C.C. policies has been requested by virtue of a movement to re-institute Class D licences and/or community radio, otherwise known as low power FM radio service;

WHEREAS, the Mount Clemens City Commission believes that the re-institution of low power FM radio service will be, in fact, a worthwhile public service providing diversity of ownership, public choice, business promotion and communications reflecting the needs and character of the community both in and surrounding the City of Mount Clemens.

NOW, THEREFORE, BE IT RESOLVED, that this Resolution, having been adopted by the Mount Clemens City Commission on Monday, May 17, 1999, be made a permanent part of the records of the City of Mount Clemens and that copies of this Resolution shall be transmitted immediately by the City Clerk to the F.C.C.

Adopted: May 17, 1999

Quinnie E. Cody, Mayor of Mount Clemens

5-19-99

City of Melvindale

Resolution 99-05-210

Moved by Luzod

Supported by Stuart

WHEREAS, the FCC is receiving public comments concerning a proposal to re-establish low power broadcast services; and

WHEREAS, allowing low power FM radio to return to the airwaves will promote communications that better reflect the character needs of the local communities.

NOW THEREFOR BE IT RESOLVED, that the City of Melvindale encourages the FCC to restore approval of low power FM radio broadcasting, provided that no federal rules adopted in connection herewith attempt to preempt local regulations thereof.

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to the Federal Communications Commission.

Passed unanimously.

5-24-99

City of Marysville

Resolution in Support of Community Radio

WHEREAS, In 1978, the Federal Communications Commission (F.C.C.), ended its licensing of low power radio stations (Class D broadcasting licenses to stations of less than 100 watts), reducing overall the number of locally based radio stations in service to local communities. Since that rule change, other factors such as increased consolidation within the radio broadcast market have contributed to a significant reduction in the number of community responsive radio services; and

WHEREAS, Nationally, a grassroots movement has emerged for the purpose of advocating F.C.C. reinstatement of low power radio stations. Their efforts have resulted in a formal rule-making petition before the F.C.C., RM-9242, that would create opportunities for the return of locally owned and responsive FM radio stations for communities; and

WHEREAS, Re-legalization of low power radio stations would serve to increase local media presence and ownership, promote small business development and broadcast entrepreneurship; increase community choice and allow for communication services that are responsive to the needs of local communities.

NOW THEREFORE, BE IT RESOLVED, that the City of Marysville urges the Federal Communications Commission to restore approval for low power FM radio broadcasting. The City of Marysville joins the Michigan Senate (SR234), the Michigan House of Representatives (HR379) and the many grassroots organizations in seeking F.C.C. adoption of petition RM-9242 to restore low power FM radio broadcasting.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the Federal Communications Commission.

Resolution declared adopted.

Sharon L. Schess, City Clerk, CMC

6-1-99

City of Lincoln Park

Resolution #99-273

Moved by: Mayor Sall

Supported by: The Full Council

WHEREAS, the FCC is receiving public comments concerning a proposal to reestablish low power broadcast services; and

WHEREAS, allowing for low power FM radio to return to the airwaves will promote communications that better reflect the character needs of the local communities,

NOW THEREFORE BE IT RESOLVED, that the City of Lincoln Park encourages the FCC to restore approval of low power FM radio broadcasting.

BE IT FURTHER RESOLVED, that copies of this resolution be transmitted to the Federal Communications Commission, Congressman John Dingell, Senator Carl Levin and Senator Spencer Abraham.

Motion unanimously carried.

6-7-99

City of Farmington

Resolution No. 06-99-158

Motion by McShane, seconded by Hartsock, to adopt the following resolution:

WHEREAS, in 1978 the Federal Communications Commission stopped licensing low power radio stations.

WHEREAS, a national movement has emerged for these low power radio stations and, as a result, Petition RM 9242 is currently pending before the F.C.C.

IT IS THEREFORE RESOLVED BY THE CITY OF FARMINGTON that the Farmington City Council urges the F.C.C. to restore and approve low power FM radio broadcasting, and joins the Michigan Senate (SR234) and the Michigan House of Representatives (HR379) in this request.

Motion carried unanimously.

6-2-99

Washington Twp.

Resolution to urge the Federal Communications Commission (F.C.C.) to restore approval for low power FM radio broadcasting.

Present: Gary R Kirsh, Supervisor, R J Brainard, Clerk, Linda A Verellen, Treasurer, Fred Blonde, Jack Dorrough, Michael Murphy, Barry Sutherland, Trustees

Absent: none

The following preamble and resolution was offered by Member Verellen and supported by Member Kirsh:

WHEREAS, in 1978 the Federal Communications Commission (F.C.C.) ended its licensing of low power radio stations (Class D broadcasting licenses to stations of less than 100 watts) reducing overall the number of locally-based radio stations in service to local communities. Since that rule change, other factors such as increased consolidation within the radio broadcast market has contributed to a significant reduction in the number of community responsive radio services; and WHEREAS, Nationally a grassroots movement has emerged for the purpose of advocating F.C.C. reinstatement of licensing of low power radio stations. Their efforts have resulted in a formal rule-making petition before the F.C.C., RM-9242, that would create opportunities for the return of locally owned and responsive FM radio stations for communities; and

WHEREAS, Re-legalization of low power radio stations would serve to increase local media

presence and ownership, promote small business development and broadcast entrepreneurship, increase community choice and allow for communications services that are responsive to the needs of local communities;

NOW THEREFORE BE IT RESOLVED, That Washington Township urges the Federal Communications Commission to restore approval for low power FM radio broadcasting. The Washington Township Board joins the Michigan Senate (SR234), the Michigan House of Representatives (HR379) and the many grassroots organizations in seeking F.C.C. adoption of petition RM-9242 to restore low power FM radio broadcasting.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to the Federal Communications Commission.

Ayes: Members Verellen, Kirsh, Blonde, Murphy, Sutherland, Dorrough and Brainard.

Nays: Members: none.

Resolution declared adopted.

6-23-99

City of Grosse Pte. Woods

Certified Resolution

Motion by Granger, supported by Dickinson, that the City Council concur with the recommendation of the Committee-of-the-whole and in the excerpt of minutes dated June 14, 1999, regarding local community radio and that the following resolution be adopted:

WHEREAS, in 1978, the Federal Communications Commission (FCC) ended its licensing of low power radio stations (Class C broadcasting licenses to stations to less than 100 watts) reducing overall the number of locally-based radio stations in service to local communities;

WHEREAS, re-legalization of low power radio stations would serve to increase local media presence and ownership, promote small business development and broadcast entrepreneurship, increase community choice and allow for communication services that are responsive to the needs

of local communities;

NOW THEREFORE, BE IT RESOLVED that the City of Grosse Pte. Woods, Michigan, urges the Federal Communication Commission to restore approval for low power FM radio broadcasting by adopting petition RM-9242.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the Federal Communications Commission, Federal and State Congressional legislators.

Motion carried by the following vote:

Yes: Chylinski, Dansbury, Dickinson, Farher, Granger, Novitke, Steiner

No: None

Absent: None.

6-16-99

Shelby Twp.

Motion by Kowal, supported by Parker, to acknowledge support of the Michigan Music is World Class Campaign urging the adoption of the pending plan to re-legalize community radio.

Motion carried.

7-7-99

City of Livonia

A Resolution To Support Reinstatement of Licensing For Low Power FM Radio Stations

#461-99

WHEREAS, in 1978, the Federal Communications Commission (FCC) ended its licensing of low power (less than 100 watts) radio stations, thereby reducing the number of locally-based stations;

WHEREAS, nationally, a movement has emerged to advocate the reinstatement of low power, lower cost FM radio stations; this movement has resulted in a formal rule-making petition before the FCC, known as RM-9242;

WHEREAS, at the state level, the Michigan Senate has introduced Senate Resolution 234 (SR234) and the House of Representatives has introduced House Resolution 379 (HR379) which support the adoption of RM-9242 to create a new service of small, locally-owned FM stations; NOW THEREFOR BE IT RESOLVED, that the Livonia City Council urges the FCC to restore approval for low power FM radio broadcastings; BE IT FURTHER RESOLVED that copies of this resolution be sent to Governor Engler, State Senator Thaddeus McCotter, State Representative Laura Toy and State Representative Gerald Law.

Ayes: Walsh, Vandersloot, Pastor, Duggan, Laura, Brosnan, Angebretson

Nays: None.

The President the resolution adopted.

Joan McCotter, City Clerk

7-7-99

Washtenaw County

A Resolution in Support of Low Power FM Radio Services and/or Broadcasting

Washtenaw County Board of Commissioners

WHEREAS, the County of Washtenaw is committed to the principles of free speech guaranteed in the First Amendment to the United States Constitution; and

WHEREAS, the Federal Communications Commission (FCC) has not made affordable, Low Power (less than 100 watts) FM broadcast frequencies available for community use since 1978 when regulatory changes eliminated Class D FM licenses for less than 100 watts of power; and

WHEREAS, the passing of the Telecommunications Act of 1996 has led to an unprecedented consolidation of broadcast industry ownership and a marked decrease in both local and minority ownership of radio stations and originations of programming; and

WHEREAS, the rights of free speech and a free press are threatened when access to

communication media is concentrated in the hand of the few; and

WHEREAS, the FCC is now hearing public comment on a proposal to offer simple, affordable, commercial and non-commercial Low Power FM broadcast licenses (FCC=s MM Docket No. 99-25); and

WHEREAS, commercial and non-commercial radio stations operating under such a license could provide a community voice to individuals, musicians, artists, writers, activists, students and points of view which are presently economically barred from access to their own above-mentioned airwaves; and

WHEREAS, issuance of said licenses would constitute a net benefit to the social, cultural and political life of Washtenaw County and its citizens; and

WHEREAS, Washtenaw County is committed to enhancing public awareness of current events and issues by advocating for the creation of low power FM radio stations in Washtenaw County
NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby supports the concept of low power radio stations and urges the FCC to fulfill its mandate as guardian of a public resource and to enact a licensing regulation to grant affordable, simple, commercial and non-commercial broadcast licenses to its citizens.

BE IT FURTHER RESOLVED that the Board of Commissioners directs the County Clerk to forward copies of this resolution to the representatives of Washtenaw County and the Michigan Association of Counties.

7-19-99

City of Royal Oak

The following resolution was adopted:

BE IT RESOLVED that the City of Royal Oak urges the Federal Communications Commission to restore approval for low power FM radio broadcasting.

BE IT FURTHER RESOLVED that a copy of this resolution should be sent to the Federal

Communications Commission.

Mary Haverly, City Clerk

7-20-99

City of Dearborn

7-25-99

Bruce Twp.

7-26-99

Waterford Twp.

Resolution Supporting Restoration of Low Power FM Radio Broadcasting

WHEREAS, The Federal Communications Commission (FCC) is receiving public comments concerning a proposal to re-establish low power broadcasting services; and

WHEREAS, allowing low power FM radio to return to the airwaves will promote communications that better reflect the character needs to local communities,

NOW THEREFORE, BE IT RESOLVED, that the Charter Township of Waterford encourages the F.C.C. to restore approval of low power FM radio broadcasting, and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the Federal Communications Commission.

RESOLUTIONS PENDING IN THE MICHIGAN LEGISLATURE

MICHIGAN SENATE

Senators Dunaskiss, Young, Johnson, Dingell, Cherry, Peters, Murphy, A. Smith, DeBeaussaert, Emmons, North and Leland offered the following resolution:

Senate Resolution No. 53.

A resolution to urge the Federal Communications Commission to adopt rules to provide for new low-power FM radio stations.

Whereas, The Federal Communications Commission (FCC) discontinued the licensing of low-power radio stations (those using under 100 watts of power) twenty years ago. This decision was based on concerns that low-power stations were a hindrance to the orderly development of FM radio and a potential impediment to the efficient operation of facilities serving greater numbers of people; and

Whereas, As a result of the discontinuance of low-power radio stations and technology changes, a new station meeting the FCC requirements for size represents an enormous capital investment; and

Whereas, The FCC, in response to concerns from across the country, has issued proposed rules to permit the licensing of new low-power radio stations. With the goal of reviving community-based opportunities in radio, the FCC is now seeking public comment on the proposed rules. In light of the role that local communications through radio can have in both urban areas and smaller towns, Michigan=s voice should be heard in the discussions taking place; now, therefore, be it

Resolved by the Senate, That we urge the Federal Communications Commission to adopt rules to provide for new low-power radio stations that would not sacrifice the integrity of the current interference protection standards, nor prevent FM stations from providing vital news, weather, and traffic information; and be it further

Resolved, That copies of this resolution be transmitted to the Federal Communications Commission.

Pursuant to rule 3.204, the resolution was referred to the Committee on Government Operations.

MICHIGAN HOUSE OF REPRESENTATIVES

Reps. Schermesser, Pappageorge, Hansen, DeHart, Bogardus, Gosselin, Bovin, Woodward, Brater, Kelly, LaForge, Cherry, Brewer, Rison, Quarles, Stallworth, Basham, Prusi, Baird, Daniels, Dennis, Callahan, Schauer, Gielegthem, Mans, Kilpatrick, Jamnick, Scott, Vaughn, Rivet, Tesanovich, Voorhees, DeRossett, Kowall, Kukuk, Hardman, Garza and Hale offered the following resolution:

House Resolution No. 67.

A resolution to encourage the Federal Communications Commission to restore approval for low-power FM radio broadcasting.

Whereas, For many years, low-power radio stations filled a unique niche in the communications needs of local communities. These operations, which used less than 100 watts of power, were licensed as Class D FM stations; and

Whereas, In 1978, The Federal Communications Commission made a policy decision to stop licensing low-power radio stations. This decision was based on concerns that low-power stations were a hindrance to the orderly development of FM radio and a potential impediment to the efficient operation of facilities serving greater numbers of people; and

Whereas, In recent years, the rate of consolidation in the radio broadcast market has increased. As

a result, far fewer locally based radio stations have programming that serves their communities. These concerns have prompted many people to promote a change in FCC policies. A proposed change to FCC rules, which seeks to permit the reestablishment of low-power FM broadcast services, is currently under consideration; and

Whereas, Allowing low-power FM radio to return to the airways will achieve several worthwhile goals in communications options open to people in our country. These community radio services will increase the local presence in the media, increase diversity of ownership, provide more choices to the public, offer new opportunities in business, and promote communications that better reflect the character and needs of our communities; now, therefore, be it

Resolved by the House of Representatives, That we encourage the Federal Communications Commission to restore approval for low-power FM radio broadcasting; and be it further

Resolved, That copies of this resolution be transmitted to the Federal Communications Commission.

The resolution was referred to the Committee on Energy and Technology.

