

### Is there a need for an LPFM Service?

Before creating a low-power radio service ("LPFM"), it must first be determined that there's a need for such a service, and no existing alternative method of serving that need. Clearly, there has been much public comment and response of a need for more community voices. The Commission has proposed a service that by its own admission will not fulfill these needs, particularly in metro areas where the biggest outcry is originating. In addition, the Commission has failed to address the largest voice, that of the non-commercial community broadcaster. Instead, the proposals seem to favor commercial interests, with two of the proposed classes similar or exceeding the facilities of current licensed Class A FM stations. The rulemaking is neither low power nor serves the public interest, as it is intended, as very few new stations would be created.

The Commission has proposed three alternatives to LPFM. Internet broadcasting is certainly feasible and growing in popularity. This has become much more universally accessible with the lower cost of computer systems, and the more universal access that is available and quickly growing. The main drawback is mobile or portable reception at the present time. However, as with many technologies, this may be just a matter of time before this is possible.

Purchase of an existing station is suggested as an alternative. I have no sympathy for commercial broadcasting ventures, as this is a product of the marketplace in what a station may be purchased for. However, non-commercial interests do suffer from this possible solution to creating more stations. Perhaps there can be tax breaks or incentives to sell stations to non-commercial groups that are affordable.

Leasing of time on existing stations is a viable option. With the advent of automation, and the fallout of 80-90, there is a glut of station air time available, that may be more lucrative for the licensee to sell, than to automate. The Commission has stated that it does not like nor will get into the program format regulation business. However, it seems that a small rule change could easily accommodate this requirement in less desirable air hours, or maintain a minimum lease time option for stations that are not 100% local, ie that automate their air 100%. This may be an option.

However, there are many problems with each of these options that an lpfm service could address. However, there are major issues regarding the implementation of ANY lpfm service.

### Non-Commercial Only Service and Ownership

Several questions are asked by the Commission concerning non-commercial operation and other ownership limits. Should LPFMs operating in 88-92MHz be required to operate non-commercially? Should this restriction extend across the entire 88-108MHz band? It is imperative that the reserve band be maintained noncommercial for any existing and proposed service. In fact, I would like to see the standards tightened to question religious activity, and their fundraising practices, especially by organizations that operate for profit ventures in addition to their non-profit missions.

As for the mission of LPFM, the majority of people that have been asking for this service are of a non-commercial nature, ie. Colleges, community groups, civic and religious groups. With this in mind, any lpfm service should be non-

commercial. There are more than enough commercial outlets available for a business to advertise. There is no constitutional mandate to set the price of advertising to be affordable by every business. In fact, it goes against every free market principle that the nation was founded on. Providing a commercial LPFM service does nothing more than subsidize the free market system, and the broadcasting industry. In addition, there is no data available on the merits of added commercial stations being effective to local communities. If anything, they may dilute existing commercial businesses (radio stations) and cause a further decline in local programming, due to cost cutbacks that stations may have to employ due to added competition. Everyone would lose, the consumer, the radio stations, and the businesses. Radio stations all over the country already have excess inventory of advertising time available. Commercial LPFM service will just exacerbate the problem.

The FCC also states it believes that it is required to resolve mutually exclusive applications for any commercial service by auction. The laws cited certainly back up this belief. If a commercial service is proposed, than it should have to abide by all the Commission's rules, including payments of yearly fees, and auctions of exclusive licenses. Some have argued that this may prohibit local ownership. This is just another problem with the aspect of ANY lpfm service that is commercial in nature, unless the ownership is 100% local. However, there are so many methods of loopholes in this area, that the chances of 100% local ownership would be hard to enforce.

Any non-commercial lpfm service mutually exclusive licensees, should be handled by the same method as other non-commercial service currently or will have. Currently, a weighted lottery is proposed. I concur that this should likely be in effect, but with added factors, stressing local ownership.

Concerning ownership, Should those with attributable interest in full-power stations be permitted to own LPFMs?

This is a tough issue. Educational organizations, that will provide a 100% local service that is unique, should be allowed to apply for a lpfm license. Example: A university owns a Public Station, and now wants to have a separate "student" station. Under no circumstances, should any LMAs, out or area applicants, full blown repeater stations be allowed to apply for lpfm. Priority should be given to new owners, not existing owners. Local Ownership shall be defined as in State.

If the purpose of LPFM is to allow the creation of a community voice in places where local full-power stations are not practical (either due to dial congestion or proximity of a larger city), there really is no need to allow one entity to own more than one LPFM. The exception would be State University systems, that have one body hold licenses for the entire state system. This would allow a College at one end of the state have an lpfm station and another at the other end also have an lpfm facility. If not, this may create undo hardship on educational institutions. In no case should this provision be held out to private or religious groups.

I see no particular reason to prohibit anyone with an attributable nterest in a full-power station from owning an LPFM, provided that LPFM is prohibited from rebroadcasting any full-power station. In any case, it should not be permissible for any LPFM station, regardless of ownership, to rebroadcast any other station.

It is suggested that regulations requiring LPFM owners to live within the station's coverage area are not necessary. If regulations can be formulated to

require programming to originate within the station's coverage area, this is probably true. However, local ownership could be worked into the lottery process for mutually exclusive licensees.

I propose that NO cross band stations be allowed. In other words, lpfm service should not be used as an AM translator service for existing AM stations. In most cases, a prohibition on commercial lpfm service would make this rule unnecessary.

Finally, it's asked whether those found to have participated in illegal "pirate" broadcasting in the past should be disqualified from LPFM ownership. I propose that those found to have operated without a license before the date that adoption of any LPFM is announced and have been cited, shutdown, or fined by the Commission should be disqualified from operation of LPFM stations. Those who are found to have operated illegally after this date should not be licensed. Only those entities that have complied with the Commissions rules should be able apply for any lpfm service.

#### Programming and other legal issues

No minimum local programming requirement is proposed. This is a major shortcoming of the proposed rules. While LPFMs would not be permitted to rebroadcast full-power stations, there is nothing in this proposal to prohibit them from carrying a full time satellite feed. If there are also no regulations requiring LPFM owners to reside within the station's coverage area, we could easily end up with distant owners tying up all available channels to broadcast their viewpoint into someone else's community. Without this requirement, lpfm will be nothing more than another translator service, fed by automated formats or distant signals. Even with a prohibition on rebroadcast of full power stations, loopholes could be created.

I believe it would be reasonable to require all programming on LPFM stations to originate in studios within the coverage area of the station, or by station staff. An exception might be made for news programming and certain specials. A cap of so many hours per day of outside programming, to accommodate regional and national news, sports broadcasts, and cultural and educational programs.

The public-file rule is not overly burdensome, and would be even less so for LPFM stations whose limited coverage area would reduce the amount of public input that would need to be filed. Periodic ownership reporting would not be a particular burden for LPFM operator.

There should be minimum operating rules applied in line with the existing services. To avoid duplication, the Commission should adopt the same rules it already applies to the FM service for lpfm stations.

All LPFM stations must use type certified equipment, no matter what power output is specified. This will ensure strict compliance with power outputs, frequency stability, and maintaining interference criteria. All the technical rules currently applicable to FM service, should also apply to lpfm. No hobby or kit transmitting equipment shall be permitted.

All lpfm services must comply with EAS rules. Similar to the requirements for Class D stations, while not having encoders, any lpfm service under 10 watts must be able to decode the EAS and automatically relay that information. Any service that is above 10 watts must have full EAS capability. EAS is a valuable resource, and if lpfm is truly to be a community service, it must also be

responsible to the community for this vital service. Some have argued the costs being too prohibitive. However, this is just part of broadcasting, and it must be recognized that this be a requirement, just as using type certified transmission equipment.

All FCC lpfm stations MUST have a call sign, and follow all the rules associated with the ID procedure. I propose the use of a LP suffix such as WXXX-LP KXXX-LP, or possibly the commission provide a different form of ID, similar to translators, that would include the frequency. Perhaps something like W881XXLP or some other designator. I believe it essential that these stations remain distinct as translators are today, and also ID's be give so that interference can be tracked by the Commission and existing stations.

### Technical Rules

The question of the relative priorities of LPFM and existing stations is of critical importance. LPFM MUST NOT BE PERMITTED TO INTERFERE WITH EXISTING SERVICE OR LIMIT THE EXPANSION OF STATIONS THAT HAVE MADE THE INVESTMENT NECESSARY TO OBTAIN FULL-POWER LICENSES. On the other hand, allowing LPFM stations to be "bumped" for stations that do nothing more than rebroadcast out-of-town signals is contrary to the public interest.

LPFM should be secondary to these existing full-power stations. The proceeding which resulted in the end of new Class D stations found that higher-power operations were a more efficient use of the FM band. The current LPFM proceedings suggest that, after maximum use of the band has been made by high-power stations, some additional low-power operations might be accommodated. But efficiency still requires that a LPFM station not be allowed to prevent the creation, upgrade, or move of an existing full-power station.

There has been enormous growth in the number of FM translators in the last ten years or so. Translators were designed to serve to fill in gaps in the coverage area of local full-power stations. However, a loophole in the translator rules have allowed nation-wide coverage for non-commercial stations, with absolutely no content of local interest. Existing translators should be "grandfathered", protected from interference from LPFM, as long as they are providing a fill in service of a local or regional non-commercial public station, or in the case of the commercial band, a local or regional commercial station. It may also be advisable to protect translators located within the protected contours of their primary stations. (i.e., "gap fillers" in rough terrain or places where "blanketing" interference is a problem). Any existing out of the region satellators, that do not meet the criteria of First Public radio service under NTIA/PTFP and CPB definitions would be subject to "bumping" by any lpfm service. In addition, Translator INPUTS for direct off air reception of their primary station must also be protected from any lpfm interference.

Any new translators should be secondary to LPFM, if they are either not a fill in translator of an existing local full power station or are not providing First Public Radio service as defined by PTFP and CPB definitions. Fill in translators shall be strictly defined by an area within the local station's 1mv/m contour.

The Commission proposes to allow LPFM stations to operate on the 2nd

and 3rd adjacent channels to existing stations in the same area. The current minimum separation for stations in the same area is 800KHz. This relaxation would greatly increase the number of LPFM stations possible. A common argument against this move is the suggestion that adjacent-channel interference will result on inexpensive receivers. The Commission has proposed a service with no lab data, no tests on its implementation, nor has used any existing real case studies to determine the effect on relaxed spacing. While the Commission and broadcasters may agree that BETTER receivers may be able to sort out stations that are more closely spaced, the reality is that a majority of the receivers in the marketplace can not meet this requirement. Is the Commission ready to institute a mandatory recall on all inferior receivers? Will the Commission mandate all receivers being able to pick up these closer spaced stations? As it is, the 80-90 docket created major problems for areas in between and outside metro areas. There is much interference to many radios, and the consumer, who might have enjoyed receiving the programming of a regional station, now has that coverage blocked due to an adjacent local drop in or a translator (even though the latter is not supposed to interfere, real life data indicated that this is the case). Unless the Commission is willing to mandate a receiver upgrade, I would oppose any relaxation of 1<sup>st</sup> or 2<sup>nd</sup> adjacent criteria. 3<sup>rd</sup> adjacent may be possible, under certain circumstances, if the power levels are low enough for lpfm. However, even stations that are 3<sup>rd</sup> adjacent can blanket existing stations if located in population area, such as a neighborhood.

Should the Commission relax the interference criteria, will existing stations be allowed to upgrade their facilities first? This should be considered, to ensure that no loss of coverage due to lpfm "dropins" occurs. The Commission should be well aware by now that most of the country relies on radio coverage that is not in the interference protection contour of a full power station. This is especially true of Public Radio as a rule, rather than an exception. It is imperative that no loss of receivable signal from current stations be allowed at the expensed of any LPFM service.

Possible interference to in-band on-carrier ("IBOC") digital radio broadcasting is also a concern of the Commission and of existing radio stations. The data is not fully in on what IBOC can or can not tolerate. The Commission may be circumventing any successful implementation of this new service, by allowing LPFM stations to exist at all. Instead, it would be prudent to wait for the IBOC rules to be implemented, before the lpfm rules are released. IBOC is in testing now, as regards existing FM band plans. It would be premature to allow lpfm to happen, before the IBOC process is fully implemented.

The Commission suggests limits on the peak deviation and use of subcarriers by LPFM stations may be helpful in reducing the chances of adjacent-channel interference. A modest reduction in peak deviation could provide some reduction in interference potential without unduly limiting the utility of LPFM broadcasts. A reduction in the permitted maximum modulating frequency could also be helpful. Due to the limited power authorized, I suspect subcarrier operation on LPFMs will not be practical in any case, so the Commission should prohibit it for any lpfm

It was suggested that changes might be made to the stereo system such as changing the pilot tone or the center frequency of the L-R subcarrier) to reduce bandwidth. Such changes would yield a signal that could not be decoded by existing receivers and cause consumer confusion. If the Commission wants changes to the stereo system that exists, then a rulemaking is in order to do just that. If the Commission has interference concerns it might be more productive to simply prohibit stereo operation of LPFMs.

It is proposed to use specific distance separations, rather than actual coverage contours, for determining whether a particular type of LPFM station can be permitted at a given location. Any lpfm service should conform to existing technical rules. Therefore, actual contours are more significant for interference than distance. It is far more accurate to track actual terrain data, than for distance. The Commission is moving towards a uniform method, whether PTP or other formula. LPFM should be no different than other FM services. Some have argued the costs would be too high for consultants, and studies. While I am somewhat sympathetic, this is a cost of broadcasting that commercial and non-commercial stations have to live with. The Commission provides the tools, databases, and information free, so that even the most impoverished applicant can have free access. No special provision should be made for lpfm.

LPFM: The Commission's Proposal is not lpfm

The Commission proposes to create at least two types of LPFM station: "LP1000" and "LP100". A third type, "microradio", is also suggested. These stations would have maximum effective powers of 1,000; 100; and 1 or 10 watts respectively. I do not believe three types of LPFM are necessary.

The "LP1000" stations are not necessary at all. Stations of LP-1000 or LP100 are class A stations. Period. This is not a new service, but just a proposal to circumvent existing FCC rules concerning Class A stations. There are many Class A stations the Commission has licensed that are below either 1000 or 100 watts. Licensing stations at these levels will not serve the public interest, and in fact, would be so limited, as not to be an efficient use of the spectrum. Instead of focusing on a real lpfm service, this is nothing more than a ploy for commercial interest to make a new class of 80-90 dropins. The LP1000 and LP-100 proposals should be dismissed by the Commission. However, if LP-1000 and LP-100 stations are granted, will existing Class A stations and grandfathered Class D non-commercial educational stations be allowed to upgrade their facilities? This would be something that should be considered first, in any proposal for HIGH power FM service. We must remember that the majority of those that proposed lpfm were from groups disenfranchised by the elimination of the Class D FM station.

I propose creating only one type of LPFM, with a maximum ERP of 99 watts at a reference HAAT of 20 meters HAAT, and a minimum ERP of 10 watts. All the licensees must comply with the regulations of the non-commercial service. Stations that are 10 watts now should be able to upgrade to what is permissible under all the rules. It is the intent that stations that exceed this requirement would be treated as Class A stations. As mentioned above, lpfm stations would be secondary to existing services, and in the case of Translators, Secondary to existing or new Fill in translators, and translators that provide First Public Radio Service to an area, under NTIA/PTFP and CPB rules. They can not interfere with any existing full power stations, and must not interfere with the input to translators. The service must be non-commercial only, to allow for the diversity of voices the Commission is proposing.

A more eloquent solution.

The Commission could solve the issue of lpfm by allowing the reintroduction of the Class D non-commercial license, by revamping the translator rules. First, the Commission should only allow translators of a regional or local nature. Elimination of the Alternative feed rule, and allowing out of the area non-off

air fed translators be subject to bumping, unless they provided first public radio service as defined by NTIA/PTFP and CPB rules. Class D stations would have to be locally or regionally owned and provide a mostly local service. Fill in translators and those providing first public radio service would be protected. Applications would be considered for any out of the region translator on a first come first serve basis, during a filing window/cut off list. Similar local applicants for Class D stations would be determined by current Commission methods. Existing non-local translators could remain on the air, until a construction permit is granted for a local Class D station.

The Commission should also consider the use of 87.9, 87.7, and 87.5 Mhz, once Digital TV is established and the Channel 6 usage is eliminated, except in the two markets indicated in the FCC Band Plan. Most receivers today can receive these frequencies. Perhaps it can be setup by a non-governmental frequency body, such as the way the SBE currently handles wireless devices, and the ARRL handles repeater allocations. While this solution is at least 6 years away, it should be considered.

#### EVENT BROADCASTING

As part of this proposal, and another rulemaking, the Commission has before it an event broadcasting proposal, for limited special even coverage such as sporting events, etc. Many of these events happen in existing arenas. Current technologies, such as Part 15 leaky Cable FM could handle many indoor and permanent venues. The NHL is proposing a service up to 40 watts. We find this excessive, and find no useful purpose to the public for such a service, that could be easily implemented without concerns to interference at much lower power levels or by current Part 15 technology, such that the RF stays inside the Venue. However, there are instances where it would serve the public interest for temporary special event broadcasts at venues much larger than small arenas, such as covering adjacent parking areas, or in the case of Race Tracks. In this case, a very low power service, in the range of no more than 5 watts be permitted. In addition to all the requirements of using type certified equipment, and interference to existing services be eliminated, Strict definitions as to what qualifies as a special event, and length of service must be established. Strict controls on the prohibition of leaving dead carriers on the air must be established. In order not to burden the Commission, site licenses for permanent venues or organizations should be required, and perhaps the use of a frequency coordinating body be used to facilitate the use of this service. Under no circumstances should this be an extension of business oriented Part 15 uses, such as "talking houses" or drive by ads. The service should only be used for the actual event, and be limited to certain types of programming, such as multi-channel or lingual programming/Play By Play/, use for the hearing or visually impaired, or these types of things. It should not be used as a broadcast service of a year round, regularly scheduled program, such as a church service, talk show, or used as a guise to circumvent FCC rules for radio station services under other rules. It should be limited to a certain number of hours per year, per site, per day, and perhaps not allow regular broadcasts on a year round basis.

#### Conclusion

LPFM is a noble venture. However, it seems the Commission is being swayed by political issues rather than the laws of physics or the reality of the current broadcast band. A useful LPFM service can not be implemented under the rules the Commission is proposing at this time. In addition, the rush to implement IBOC at the same time spells disaster for both services. The Commission must accept the reality that lpfm can not happen as they would like under current technology. Perhaps when a new form comes of age down the road, or in implementation of IBOC, LPFM could exist, then everyone could be happy. However, the lpfm proposal, as the Commission suggests, will only hurt existing broadcasters, and ultimately, the consumer, who will find the FM band as useless as the already congested AM band at night.