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August 1, 1999

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

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

**FCC MM 99-25**

Comments of Mark Blake

Background

On January 28, 1999, the Federal Communications Commission proposed the creation of a new low power FM (LPFM) radio service (MM Docket 99-25) in response to RM-9208 and RM-9242. It was the belief that the stations which would be created nationwide would provide "a low-cost means of serving urban communities and neighborhoods." I submitted comments on both RM-9208 and RM-9242 and applaud this first step that the Commission is taking to evaluate the viability of this new class of service. In every community across the country, there are unmet needs with respect to broadcasting. Broadcasting has become a privilege for the few and lacks the diversity which it rightfully should. The rapid consolidation which has occurred in the industry since the Telecommunications Act of 1996 has only made a bad situation worse. An antiquated system of second and third adjacent channel protection is unnecessary and extremely restrictive. This is a bold step at a critical juncture in the broadcasting history of our nation.

The comments which follow are on the details of what has been proposed. There are certain areas which I cannot comment specifically in particular on the adequacy of the separation distances being proposed because this would require access of the airwaves to perform certain tests. Back in December of 1998, I submitted an application for an experimental license to perform detailed data gathering on what has proved to be essence of the proposed service. Eight months have passed. While the application is technically still pending (no official approval or denial has been received), I doubt that it will be approved. The lack of this crucial quantitative data places the supporters of MM 99-25 at a distinct disadvantage to counter claims which may be made by those who do not embrace it. It is my hope that the opportunity to gather data has been extended to some individual or group supportive of this initiative.

## Response To MM 99-25

I am supportive of the local ownership restriction proposed for LPFM which specifically calls for station owners to reside within 50 miles of the antenna site.

I am supportive of LP1000 stations being given primary status. Even with the low power, successful operation of the station would require a modest investment in equipment. To give the stations secondary status would be to create financial jeopardy and would severely limit the ability of licensees to obtain funding or successfully operate a station.

I refute the National Association of Broadcasters and National Public Radio's claims that stations are serving community needs and that "there is no indication that the diversity of station formats is decreasing." Not only are formats decreasing, but ownership is also shrinking at an alarming rate. Today, less than 3% of all broadcast stations are owned by people of color (thanks to the Telecommunications Act of 1996 which has fueled consolidation and driven up station prices).

It was proposed that LP1000 stations operate at a maximum ERP of 1,000 watts at an antenna HAAT of 60 meters. I challenge this and suggest that LP1000 stations be given 1,000 watts ERP at an antenna HAAT of 100 meters: the same as all Class A full power stations. This will enable the best possible reception and enable operators to take advantage of existing tower facilities thereby lowering potential start-up costs. A downward reduction in power as proposed would only limit the potential audience of the LP1000 stations and conversely reduce their economic viability.

I feel that LP1000 stations should be protected from secondary FM translator and booster stations. Those broadcasters looking to enhance their coverage areas should do so with the premise that LP1000 stations are primary. As such, these stations should protect LP1000 stations on a co-channel, first adjacent channel and IF interference basis. I suggest that LP1000 stations also be protected from LP100 stations in the same manner.

In regards to the third class of service (1-10 watts), I feel that this should be created on a special event basis (outdoor shows, parks and concerts) that may need to communicate with attendees.

In the matter of interference protection criteria/scheme, I think that the minimum separation distance is adequate, but not optimum. A better approach would be to adopt a prohibited contour overlap methodology similar to that which is being used for LPTV. This approach would allow an operator to make adjustments through use of directional antennas to provide service in a desired area without creating interference in another. This approach would increase the likelihood that an LP1000 station could be slotted in a given market and is consistent with the FCC's directive of spectral efficiency.

In regards to ownership and eligibility, I support the premise that persons or entities who have an attributable interest in a full power broadcast station be prevented from applying for a low power FM station. It was proposed that AM station operators be allowed to file applications contingent on the divestiture of their AM station in the event that they were able to get a LPFM station. It is very likely that auctions will be held to resolve mutually exclusive applications. AM licensees would have a distinct advantage in this competitive bidding process because of access to capital. I feel that they should be allowed to apply only after first divesting their interest or after an initial filing window has been extended to the general public.

In the matter of unlicensed operators and their eligibility to apply for a LPFM station, it would be unfair to disqualify potential applicants from consideration who may have been in active litigation with the

Commission in defense of constitutional or other legal rights. Constitutional and judicial challenges are some of the privileges afforded to us under our government. While it can be agreed that an individual who continued to operate even after legal sanctions, others who were on the air during active litigation and with the court's sanction should not be penalized.

The public interest programming requirements should be looked at very carefully. One could argue that the lack of diversity on the airwaves felt by many is the result of very loose public interest programming requirements. If the new LPFM service is being implemented in part to address this, we should give great weight to the degree in which an individual or organization is able to meet the public interest requirement. In the areas where there are mutually exclusive applications, weight should be given to the applicant(s) who demonstrate the meeting of a public interest. The greater the public need served, the greater the weight. In the absence of this, LPFM will become a low power replication of what we already have.

There has been some discussion as to whether or not the proposed LPFM service be limited to noncommercial operation. To make the service noncommercial would be to seal its doom. LP1000 stations will have expenses which are proportional to full power stations. To put them in a noncommercial status would be unfair and would severely jeopardize their economic viability. It would also negatively impact the quality of programming. Consideration must also be given to small local businesses. Many of these businesses cannot afford the \$400-\$500 per spot advertising rates of full power stations. LPFM stations will provide them with an advertising alternative and assure that competition for advertising dollars work for the public's interest. Many of the would be advertisers for LPFM will be first-timers who (in time) will need and be able to afford full power stations.

It would be counterproductive to allow competitive auctions as a first step in distributing licenses. The highest bidder isn't always the one most beneficial to the public. The Commission should adopt a first come first serve filing window of about 5 days utilizing electronic filing as much as possible. If this becomes a burden or if there are mutually exclusive applications, then and only then should we consider a competitive auction.

The LPFM service should not be of a narrower bandwidth than the rest of the FM band because of its impact on sound quality. Let us not introduce a service which will be inferior at the onset in design. Sub-carrier frequencies (other than stereo) could be dropped if needed.

### Summary

In summary, I wholeheartedly support MM 99-25 with the few modifications noted.

Respectfully Submitted,

Mark Blake

(electronically submitted)