

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

In the matter of)	
)	MM Docket No.99-25
)	
)	RM-9208
Creation of a low)	Rm-9242
Power Radio Service)	
)	
)	

**Comments of
KBIM AM, KBIM FM Radio, Roswell, New Mexico**

In my 37 years in radio I have never felt the need to file formal comments on an FCC proposal until now. My name is John King, and I am the general manager with 14% ownership in the two stations. My wife, Betty, owns 62% and our two daughters own the rest.

For the FCC to propose an idea (such as Low Power FM) that would unquestionably devastate the small market radio industry leads me to believe that this Commission and its chairman are out of touch with reality. Perhaps it is because those who have been appointed to the Commission have little historical perspective in radio and are, for the most part, inexperienced in the industry. One must also get the feeling that the Commission exhibits a cavalier disregard for the forces of economic balance, and competitive

disinvestments especially in small markets.

In my market, the 80/90 disruption created seven new stations in a city of less than 50,000 people. Prior to 80/90 there were seven (7) stations, after 80/90 there are now fourteen (14) stations. Prior to 80/90 we had 23 employees with live announcers around-the-clock and a full time news department. After 80/90 and the influx of seven more stations competing for the advertising dollar forced us to reduce our staff to 9 people. We were forced to automate instead of using live announcers, and we were forced to eliminate our news department.

80/90 was the brain-child of a former Commission the purpose of which was to open up more opportunities for minorities and women to own and operate radio stations. It did not work. 80/90 was a national disgrace, a fiasco that did not result in more diversity of ownership, but rather the exact opposite occurred. The rapid growth of new FM stations nationwide resulted in such a shock to the economic balance in broadcasting that many stations could not afford to stay on the air. Service to the public is first, of course, but a commercial radio station must take in enough revenue in sales to support those services or they must reduce services or worst of all, go off-the-air. Tragically, this happened over and over in the late 80's and 90's resulting in the Commission reversing itself on multiple ownership rules. Which was another mistake.

To alleviate the mistake of 80/90 the Commission first allowed and sanctioned LMA's. Then the Commission succumbed to the lobbying of powerful radio groups and did the exact opposite of their original intent of encouraging more minority and women licensees. From LMA's the frenzy went to multiple ownership (consolidation) which we had been told by the Commission for years was "bad."

Low Power FM will compound the 80/90 problem. It will not create jobs. The influx of more stations, especially in small markets, will cause broadcasters to revert to more automation resulting in the loss of jobs and services. Existing stations will struggle to survive. The very fact that the radio dial is filled with stations will create the impression in the minds of advertisers that radio in a small market is too fractured to be a good advertising buy. It's very nearly that way now.

Radio is already suffering from the disappearance of small independent businesses that can no longer compete with the Wal Marts and K Marts, and the Office Max and Best Buys which normally do not use local radio, but rather depend on national television advertising.

If LPFM is initiated, the Commission will in effect kill the system of radio we have today and replace it with a plethora of under-financed low-powered transmitter owners who may or may

not be able to hire employees for their esoteric programming. The stations may or may not be on the air on a 24 hour basis, depending on whether or not the LPFM owner can afford to hire announcers. If not, then he/she will have to either automate or not be on the air with a predictable schedule. Then, what has the Commission gained other than destroying a workable system of radio that is still trying to serve the public, not the whims of capricious pirate operators.

The Commission, plain and simple, is playing havoc with the broadcasting industry. The Commission in proposing to "open up" all available frequencies for low power FM radio stations demonstrates a serious flaw in their thinking. It seems they envision small one-man operations. Such stations could afford to sell advertising at a fraction of what a fully staffed station must have just to pay bills.

It seems to me that the LPFM proposal of this Commission is concerned more with how they can "legitimize" pirate operations than they are in encouraging established career broadcasters to provide greater services (such as digital) to the public. Low Power FM would be like changing the rules in the middle of a game, by creating unfair competition which would severely hurt small market broadcasters who have made considerable investment in equipment and staff to serve the public.

The 80/90 ruling a few years ago allocated thousands of new

stations across the country the negative results of which are still being felt. Roswell, for instance, had (7) seven radio stations before 80/90. Now there are (14) fourteen stations in this small market. Competition keeps rates extremely low and yet costs continue to go up. You can see what additional stations on the air in Roswell would do to existing operations that try to provide jobs for people and news services. It would force cut backs, lay-offs, and loss of services. Low Power FM radio we know will KILL small market radio, but all that may be mute anyway considering the Commission's plans to allow WCS Radio, CD Radio, and XM Satellite Radio which will be the final nail in the coffin of "local service commercial radio."

For the small market career broadcaster, it is sobering to realize that one's entire career and life investment is in the hands of men and women appointed to the Commission who come and go with political changes in government. The Commissioners make their rulings and then go on to other jobs leaving the career broadcaster to pick up the pieces.

Please consider disallowing Low Power FM services, especially in small markets that are over saturated with signals already.

April 27, 1998

**FEDERAL COMMUNICATIONS COMMISSION
1919 M Street, NW
Washington, D.C. 20554**

**Re: Reply Comments to:
File numbers: 9208 and RM 9242**

Dear Commissioners:

This is an appeal to the Commission to reject the proposal of allowing low power radio stations to operate in the United States. The Commission yields an awesome amount of power in the lives of many industries. The lives of thousands of people who work in radio from DJ's to sales people are influenced by your decisions. Over the years Radio in the United States has evolved into a remarkable blend of Service to Community and service to advertisers. The Radio Industry is very much like a delicate "eco" system that balances itself between the ever changing rules and regulations of government and the whimsical demands of the public and of the unforgiving economic law of supply and demand.

Therefore, when a new commission comes along it must seek out the historical development of this delicate "eco" system. Your predecessors on the commission created an earthquake in the "eco" system called Docket 80-90. It was about 8.5 on the Richter scale in Roswell. Docket 80-90 is directly responsible for all the consolidation going on in radio today. Please, let's not

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compound things by creating another earthquake or tidal wave by allowing low power radio stations.

Low power radio in any form would register about a 10 on the damage scale. It would be devastating especially to small market broadcasters.

Flooding the nation with low-power radio stations will destroy the historic system of broadcasting in the public interest. Low power broadcasting in small markets will cause even further cutbacks in staff and resulting services. It is common for a small market station to have a sizable investment in land for tower location, transmitter facilities, studio equipment, and personnel to accommodate the many ways the public is served. The low power operator with very little investment could stick an antenna out the window of an office building and with his 2.5 watts cover the small city with a signal. He would need no staff, He could sell his time at a much lower rate with one hand, and ring the bell, tolling the death of his 100,000 watt competitors with the other.

The public will be the worse off. The stations that the public can now carry in their cars for miles and miles will be squeezed out economically. Radio as we know it will be destroyed. Jobs will be lost. And the low-power operator, benefiting from the regulation nightmare at the FCC, will not have to broadcast in the public interest after all, but only in his own interest.

Please don't let this happen.

Sincerely,

**John King
General manager**



P.O. Box 670 • Roswell, New Mexico 88202-0670 • (505) 622-6450 • Fax (505) 622-9041

April 27, 1998

VIA HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

**Re: Micro-radio Petitions
RM-9208
RM-9242**

Dear Ms. Salas

I recently attended the annual convention of the New Mexico Broadcasters Association and, thanks to the thorough and thought-provoking presentation by Roy Stewart of the Mass Media Bureau, became aware of the potential significance of the Petitions now pending before the Commission regarding the creation of one or more variants of a "micro-radio" service.

After reviewing the Petitions now open for Comment before the Commission, I have reached the conclusion that the confusion that would result in the marketplace, the increased interference and related enforcement issues that would result, and the uncertainty that the new secondary class of stations would actually result in the kind of service envisioned by the Commission make the proposals disruptive, unsettling and counter-productive, far out-weighting any possible chance of benefit to the public. In support of these conclusions, I offer the following:

Background

1. First of all, it comes as some surprise to those of us who have been broadcasters since 1961, and who have had the licenses of our stations renewed many times over that time period, that the Commission feels the need to create a whole new service to provide an opportunity, but far from a certainty, for programming that serves the heretofore unserved

Ms. Magalie R. Salas
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specialized needs of the minorities in our community. We have been fully complying with the Commission's regulations regarding the presentation of programming that is responsive to the needs, interests, and concerns of our community of license for many years now. Further, we have been putting reports in our public inspection file every three months all those years giving a detailed description of that programming. Before that, in response to earlier regulations, we provided quarterly summaries that detailed representative programming that we broadcast responsive to the needs, issues, and concerns that then existed in our community. Every one of those lists were also placed in our public inspection files. Over the years, no one, as in not a single person, has asked to review those lists for any purpose, despite the fact that we routinely announce their availability for inspection as part of each renewal filing. Furthermore, no one has filed any pleading, informal or otherwise, against any of the renewal applications themselves.

2. So far as we know, neither the FCC nor any other organization or agency has undertaken anything remotely close to systematic examination of the public service record of a representative group (never mind all) of stations in this State or in the country as a whole to determine if the present regulations are not producing the kind of result that the FCC desires. Neither have any of us who work in this industry been put on notice, either in our individual renewals or as part of an industry-wide study, that significant sections or subsections of our community are not being adequately served. To be characterized as operating in a deficient manner is both unfair and unwarranted. To have it further suggested that "thousands" of new station are needed to overcome this alleged deficiency seems, at best, premature if not preposterous.

Interference/Enforcement

3. However, let's leave all of that aside and look at the merits of the proposals. The first matter that bears close scrutiny, although swept aside by the Petitioner as unwarranted, is the two-headed issue of interference and enforcement. The allocation of radio channels among the communities of the United States is a matter of Commission policy that dates back more than fifty years. The plan was carefully conceived, judiciously studied, and thoughtfully implemented. It had to meet the statutory requirement, survive political review, and still serve the needs of each community in the country. The separations between the allocated facilities were painstakingly and rigorously followed. The goal, even then, was not to create an allocation for everyone who might want one, but to make the fullest possible use of the available spectrum, provide the most service to the public, and keep the stations from harmfully interfering with each other. Each and every proposal to modify the table of allocations has been given the closest possible scrutiny to be sure that the overall plan was not impaired in any way. A system of localized services, free from

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interference was the objective. The fact that some crippled services (e.g., directional antennas, low power) were left out was not an accident. For allocation purposes, your proposal fit or it didn't. The notion of shoe-horning in stations here and there was rejected. Even without the shoe-horning, interference occurred when actual transmissions did not match predicted contours. But the interference-free zones or cushions built into the system absorbed all but a relatively few cases of interference. Yet radio station KOB in Albuquerque was engaged in a struggle for more than two decades because of interference with WABC in New York City despite the care taken to develop the plan.

4. These new proposals, whether by set-aside or shoe-horning, would put tremendous pressure on these interference-free contours. Buffers that are now measured in miles will be cut down to feet or yards. The tension between the new stations and other new stations, as well as between the new stations and the established stations will result in constant fighting, countless pleadings and counter-pleading and bring unbelievable pressure to bear on the FCC's enforcement division to resolve the disputes that will arise wherever the predicted contours don't match actual service rendered. The differences between a theoretical "fit" and harmful interference will become an unending struggle with little or no hope of resolution. The "losers" in this interference-filled environment will be the public.

5. In addition, though Mr. Stewart took great pains to keep the issues separate, broadcasters such as myself believe the already troublesome matter of "pirate radio", encouraged by the claim of legitimacy, protected by the assertion of filing for licensing, will flourish beyond all imagination and become an overwhelming problem for all authorized broadcasters, large and small. Pirate operators will claim they have or are filing applications. It is in the nature of people who operate such stations in the first place, that they will not go away just because others get licenses to do what they do, especially if they can assert that what they are doing is legally authorized. Bound by the rules of due process, the enforcement efforts of the FCC will simply not be able to keep up with all of the parties "entitled" by the new provisions.

Programming

6. Speaking of "pirate radio", it provides a transition to the next subject. Assuming for the sake of argument that micro-radio is authorized and that the field offices can suppress the pirates. What can the FCC do to assure that the noble purposes of the proposed service will be met? One petitioner suggests that limiting the authorizations to one-to-a-customer will assure the divergence of ownership by keeping the established powers out of the business. But what can be done to assure that the programming offered by these micro-broadcasters will be of interest or

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useful to the neighborhood that they serve? After all the FCC cannot and will not regulate the content of what is broadcast. What's to keep militiamen, religious fanatics, drug culturists, alternative life stylists and various and assorted crackpots, hucksters, and con artists from taking over the new service? What's to prevent even the most idealistic licensee from selling/leasing his or her air time to commercial entity for a tidy profit if the cost of running a service cannot be sustained?

7. Even under present conditions, there is precious little hard evidence to suggest that minority ownership, or small business ownership, or other ownership restriction can be correlated to programming limited or directed to the minority community. The existence of the pirate radio community suggests that those most interested in such enterprises are ego driven not either profit or community service driven. What will change if the service becomes authorized? In short, the FCC may be creating a monster without having any way of assuring that its noble purposes will be met, and one which, once created, will not easily be dispensed with. Just imagine the number of trips to the Court of Appeals if the FCC later determines this was a mistake.

8. Are the proposed sizes of these operations such that they will or will not to be able to purchase national or regional programming? Are they effectively limited to whatever they can produce locally? Will they be able to provide the local weather and traffic information that the public has come to rely on from their local stations? Can they sustain news coverage beyond the falling tree on Maple Avenue? Is simply playing different music or playing it more often enough to justify the other problems these stations will create? How many of these stations will be able to keep up with changes in the FCC's Rules and Regulations? Will they be required to be EAS equipped and prepared to participate in this vital national alert system? Will they have to be Affirmative Action employers? Will they have to maintain a public inspection file and keep records of the public interest programming they broadcast? Can the licenses be challenged at renewal and by whom? In short, how hard a hit will the "public interest, convenience, and necessity" take in order to carve out a niche for these stations? At whose expense?

Confusion in the Marketplace

9. The radio marketplace is already a difficult one for many in the listening audience to understand. There are full power station licensed to the community. But then there are other stations, licensed to nearby communities, that put some sort of signal into at least part of the market. Then there are translators, licensed to different, often far away communities that also put a signal into all or part of the community. Soon digital satellite-delivered programming will also put potentially hundreds of signals into every community. Now the FCC wants to add

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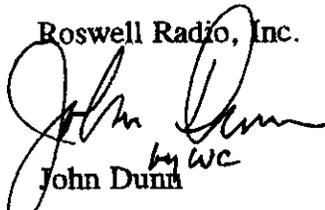
neighborhood radio to the mix. As broadcasters we have nothing to fear by way of economic competition from such a service, but what's the audience to make of this hodge-podge? Stations will be available in one block only to fade in the next. Interference may pop up where it is least expected. Listening to a simple newscast may become an adventure in push-button tuning. Poor confuse advertisers are going to need a skeleton key to decipher the advertising proposal being offered them by a potpourri of salesmen. Rating services are going to be challenged by the mosaic of stations, neighborhoods served, times of day on the air, consistency of scheduling and fluid formats. How is the audience going to remember for very long what kinds of services that they can expect from which stations? It does not require a giant leap of the imagination to think that the fabric of free over-the-air radio broadcasting is threatened.

Conclusion

In conclusion, the issues and problems raised above suggest that if the radio industry is to move toward a primary, mass audience, service and a secondary, neighborhood audience, service, both of which are supplemented by digital satellite national services, we need to carefully assess the damage that will be done to the existing time-proven audience-accepted interference-free service we now enjoy. If the new services are successful, what may result is segregated radio - full power station for the "majority" and neighborhood radio for minorities. If it is unsuccessful either because is economically inviable or because the programming does not meet any or all of the noble purposes intended, we may end up with garbage radio. I can already hear the "First Amendment" cries of those who will do anything to foil any attempt to get rid of it.

Respectfully submitted

Roswell Radio, Inc.



John Dunn
by WC

And finally, please allow me to state that the intended purpose of these new services would not be met when:

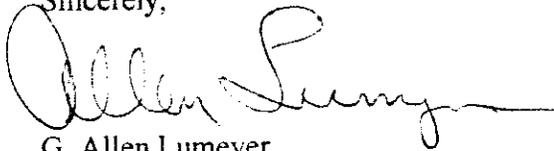
A: licensees put nationally syndicated satellite programming on the air--not the "local programming" you desire.

B: the stations are sold to mega-groups as authorized in Docket 80-90.

Our state is one of the poorest in the nation and we are in an extremely low-income county; the addition of new signals would be economically and technically disastrous to us.

Please do not move forward on the proposed low power FM service.

Sincerely,

A handwritten signature in cursive script, appearing to read "Allen Lumeyer". The signature is written in black ink and is positioned above the typed name.

G. Allen Lumeyer
Vice President/General Manager

LuRunn Broadcasting System, L.L.C.

P.O. Box 2710
Alamogordo, NM 88311-2710
505-437-1505

July 27, 1999

The Honorable William Kennard
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Kennard:

I am writing to express my opinion about the Notice of Proposed Rule Making that the Commission is considering on the issue of low-power FM, also known as microradio.

One of the major tasks of the FCC is to ensure that our broadcast and other services are maintained in as interference-free an environment as possible. It is clear to me that the Commission is abandoning its interest by looking to add these new low-power stations. How could you possibly insure compliance by flooding the market with low-power noise? Not only will new areas not be served, but existing ones will be put into jeopardy.

Moreover, the planned transition to digital audio broadcasting (which promises to greatly improve clarity and service to the public) would be jeopardized with the addition of micro or low-power stations. Please, one event at a time.

I also do not understand how the proposed ownership limits for low-power stations, or the FCC's desire to license certain favored group, can be reconciled with the Telecommunications Act of 1996 or the Balanced Budget Act of 1997. Discrimination at any level is discrimination.

If you want to do anything, how about cleaning the table of all current filings that are not being processed. If this is your idea of making government simpler, I would have to question your goals.

1230 AM
KPSA

92.7 FM
KMOU

103.7 FM
KNMZ

LuRunn Broadcasting System, L.L.C.**P.O. Box 2710
Alamogordo, NM 88311-2710
505-437-1505**

Chairman William Kennard

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July 27, 1999

Please, I am a new broadcaster to the industry and I am just now learning all the rules and regulations, new filing procedures, new bidding rules, analog vs. digital stuff, high density this and that, and on and on. Please slow down a little, clean your house up and consider the impact to the country.

Very Respectfully,

LURUNN BROADCASTING SYSTEM, L.L.C.


Phillip Runnels, Managing Member

mjm

cc:

Gloria Tristani
Harold Furchtgott-Roth
Susan Ness
Michael Powell
Senator Pete Domenici
Senator Jeff Bingaman
Representative Joe Skeen
Representative Heather Wilson
Representative Tom Udall

1230 AM
KPSA92.7 FM
KMOU103.7 FM
KNMZ

BERGMAN BROADCASTING CO., INC.

CLOVIS HWY • PO BOX 886 • PORTALES, NM 88130
505-359-1759 FAX: 505-359-0724

March 20, 1999

The Honorable William Kennard,
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Dear Chairman Kennard:

My name is Sandi Usrey Bergman. I serve as President and General Manager of Bergman Broadcasting Co., Inc. dba KSEL AM/FM, Portales, New Mexico and RICKochet Communications, Inc. dba KSMX FM, Clovis, New Mexico. My husband and I co-own KSEL AM/FM, and I am the majority owner in KSMX FM. My husband is a full-time teacher at Portales High School. Therefore, I am solely responsible for day to day operations concerning our stations. I know that FCC commissioners and staff are concerned about the total number of minority broadcast owners, and I am proud to say that yes, I am a minority owner. Now, I have a story to tell you.

On August 27, 1997 I wrote to FCC Denver Field Office Division Director Leo Cirbo to notify him that a "pirate" station was on the air on the expanded AM band at 1650. The station has sold advertising time since its inception. We have heard Clovis and Portales restaurants, auto dealerships, furniture companies, television and appliance retailers, grocery stores and financial institutions advertise on the station. I frankly cannot imagine the amount of business this illegal station has "cost" us over this past year and a half.

I really became irate one day last October (prior to elections). I had driven up to our facility, and while I was parked in the parking lot, I changed radio stations to 1650 AM, our local "pirate". I heard a stop set with ten commercials in it. I heard an advertisement for a sheriff's candidate. Following that was an advertisement for a probate judges candidate. And finally, I heard an advertiser who had discontinued his advertising with us just about the same time that the pirate "fired up." And would you believe that "KTAL" is still on the air today? I think it's pretty unbelievable myself.

In the meantime, I have been paying my regulatory fees, and I have certainly complied with the issuance requiring stations to purchase the new Emergency Alerting System equipment that incidentally was not "cheap". Altogether, the EAS system and installation probably cost around \$4,000. I presume there is a misconception on behalf of FCC decision-makers and perhaps some of those in congress that the majority of broadcasters are either owned by large conglomerates and/or that we are making money "hands over fists". What a misconception! We invite you to come out to New Mexico and meet a cross-section of those of us in this business. I can assure you, it takes a lot of our working capital just to maintain a "legal" operation. Mark and I go to great lengths to do things the "right" way, and I believe you can refer to the last FCC inspection of our facility (January 1995). We received an "Excellence" rating.



Chairman Kennard
March 20, 1999
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One of my greatest concerns regarding micro radio is this: Taking into consideration the fact that FCC staffs and budgets (in field offices) have been greatly reduced in the last few years, and that this Portales, New Mexico "pirate" radio station has continued to function to this day, HOW WILL THE FCC POSSIBLY BE ABLE TO OVERSEE THE MULTITUDE OF INTERFERENCE PROBLEMS THAT WILL OCCUR WITH THE ADVENT OF MICRO RADIO?

It seems to me that before the FCC allows more stations to be added that it should first take care of the agency's primary and foremost duty - and that is to better effectively police the airwaves as they presently exist.

Here are some additional "bones of contention" I have with the possible creation of the new FM service:

1. How are you going to "insure" that minorities actually receive these licenses? Allocating licenses to a favored group is in direct conflict with the Telecom Act of 1996 and the Balanced Budget Act of 1997. The last thing that I heard is that the FCC plans to auction the new spectrum. Auctions only guarantee that the person(s) with the most capital will receive the license, and you and I both know that minorities will not have the upper hand if this is the case. And then, the FCC will discriminate against current broadcasters including myself by not allowing us to purchase any of the low power licenses.
2. As I have read in the joint Kinnard/Trinstani statement in support of micro radio, I understand the commissioners to say that micro radio is an answer to consolidation. Micro radio in big markets, where consolidation exists, will do one thing only. It will cause a "boatload" of interference problems. There is no spectrum left in the big markets. If the staff members in our country's FCC field offices think they receive many broadcast interference-related complaints now - then, get ready! It seems to me that the FCC needs to conduct much more rigorous studies into the technical merits of micro radio, especially as it relates to the crowded spectrum in the larger markets.
3. What will micro radio do to medium and small markets where there is little to no consolidation? The answer is simple. It will help to rid this country of all the truly "local" owners like myself. I spoke with several minority owners at the NAB Leadership Conference last week about the topic. They feel like I do. We don't mind competition. WE JUST LIKE LEVEL PLAYING FIELDS. I have gone into substantial personal debt to get into this business (including an SBA minority loan to acquire KSMX), say, to the tune of \$600,000+. Isn't it great and wonderful that folks will be able to cover the City of Portales quite effortlessly with an LPFM1000 for a total investment of less than \$25,000? Then, those same low power licensees can sell advertising in direct competition with us. I know. The FCC does not want us to talk about economics. I can assure you, this IS ABOUT ECONOMICS, and I take this initiative VERY PERSONALLY. The whole notion of micro radio makes me nauseated to the point that I am ready to "sell out" to a group owner. I would suspect there are many other owners/operators who feel as I do.

Chairman Kennard
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4. Now, when micro stations go into effect and the small and medium market stations start feeling the "pinch" economically, what happens next? In my case, I will not have the time to spend on public service programming and production. I will not be able to do all of the volunteer activities I am involved with. Why? Because I will have to reduce my staff and I will personally have to focus the majority of my time and attention to sales. Yes, this is an ECONOMIC ISSUE which will affect all broadcaster's ability to continue to do EFFECTIVE PUBLIC SERVICE. Incidentally, I added up the amount of public service time Bergman Broadcasting/RICKochet Communications aired in 1998. *Between our three stations, we aired more than \$300,000 in public service announcements/programs - and that is a conservative estimate.*
5. In case you haven't heard, radio is moving very quickly into the new millennium. Our industry is in the process of developing in-band/on channel (IBOC) digital service. The relaxed interference standards that go along with the micro radio proposal may very seriously impact our industry's technical ability to develop IBOC.

There are clearly some very profound and serious problems with the micro radio initiative. I beg you, please look at the big picture. This proposal is not the answer to consolidation. If anything, the broadcasters who will be most affected (in a negative way) are those of us in the small to medium markets.

So, you might ask, how was I able to get into this business? I am proud to say that my father, who had a 6th grade education and grew up in a family of migrant farm workers, lived the American Dream. He eventually became a self-employed water-well driller. My mother was a schoolteacher. There was not a "pot" of money for me when I wanted to do this business thing. My dad let Mark and me mortgage his home and borrow my mom's small annuity to pay the down payment on KSEL AM/FM, and the previous owner carried the papers at an affordable interest rate. With God's grace and lots of hard work and tenacity, we have been able to repay those particular debts. And, as I explained to you earlier, we acquired KSMX with an SBA loan. Incidentally, I was nominated by one of my bankers for "Small Business Person of the Year" for the State of New Mexico, and was named a finalist.

We're proud of what we have accomplished here. Please, don't pull the rug out from under our feet.

Sincerely,



Sandi Usrey Bergman
President/General Manager
Bergman Broadcasting Company, Inc.
RICKochet Communications, Inc.

cc: Bill McConnell



KIOT-FM • Arrow 102.5
KZKL-FM • Kool 102 FM
KRZN-FM • 105.1 The Horizon
KEZF-FM • 103.1 K-Rock
KIVA-AM • 1310 AM
KOZZ-AM • AM 1580 Radio Disney

July 29, 1999

Ms. Gloria Tristani
FCC Commissioner
445 12th St., SW
Washington, DC 20036

Re: LPFM Rulemaking Comments

Dear Ms. Tristani,

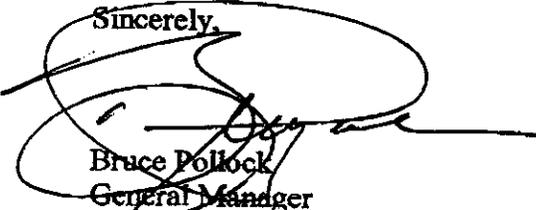
Please add my letter to your New Mexico Broadcaster file for the proposed rulemaking for the FCC to consider adding Low Power FM or Micro Radio stations in all markets.

We at Simmons Radio New Mexico and I'm sure corporately in Salt Lake City as well, greatly object to this proposed rulemaking. Not only would LPFM create additional interference with existing radio frequencies, it would also devalue existing radio properties in markets that are already over-sigaled.

It seems that this attempt by Chairman Kennard to provide access to broadcast licenses for minorities does nothing to provide real or equal opportunities for all broadcasters. These LPFM signals would also hinder each station's ability to compete as well as their own ability to serve MSA's effectively.

Remembering the debacle of the 80-90 docket, it seems that our very own FCC would not attempt to tread in waters that will undoubtedly result in more problems for today's broadcasters. Approving any addition for more radio stations, let alone LPFM's, is not necessary nor is it prudent.

Sincerely,



Bruce Pollock
General Manager
Simmons Radio New Mexico



May 20, 1999

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

Dear Sir:

We are writing to express our concerns and formal comments about the Notice of Proposed Rulemaking, MM Docket 99-25, that the FCC has begun on the issue of low-power FM radio (LPFM)

It seems that standards for this service have been made without any scientific research into the interference that would result on present FM radio service. In the Albuquerque area the FM band is saturated with stations and in order to allow any new stations interference limits on 2nd and 3rd adjacent channels would have to be relaxed. We are concerned that our community oriented public broadcasting would be compromised.

Right now in-band digital broadcasting systems are being developed which will need the present interference free spectrum that present FM stations have been granted. These systems when introduced will eliminate much of the present noise and give our signal greater clarity. The proposed LPFM stations may prevent this from happening by the new interference.

We have seven translators that serve small communities on the perimeter of our signal area that would not be able to receive public broadcasting because of the mountainous terrain in northern New Mexico. We are concerned that these translators will be knocked out of service by LPFM signals that will interfere with them. These translators are already being encroached on by full power stations being established on their frequencies by organizations wanting to license full power stations in small communities where they can get signals into larger cities.

These new LPFM stations are being proposed to allow opportunities for individuals who could not otherwise get into broadcasting because of the expense of a full powered station. We are concerned that they will be used to broadcast programming from large satellite networks already being broadcast over hundreds of translators and full powered stations across the USA instead of allowing more diversity and freedom of expression by individuals. This would seem to us to be totally against the purpose of the establishment of this service.

We are also concerned that little thought has been given as to how these limited frequencies for low-power FM would be allocated in the case of conflicting applications.

We would urge that a low-power FM service not be instituted until serious consideration has been given to the issues that we have raised above. Thank you for considering our views.

Sincerely,

Ronald Cowell
Chief Engineer

Richard S. Towne
General Manager

APPENDIX B

LISTING OF UNAUTHORIZED BROADCAST OPERATIONS

**LIST OF FCC NEWS RELEASES REGARDING
UNLICENSED RADIO STATIONS**

1. *News Release*, Report No. CI 98-8 (May 5, 1998) (unlicensed radio station in Detroit);
2. *News Release*, Report No. G 98-10 (June 17, 1998) (unlicensed broadcaster Stephen Dunifer);
3. *News Release*, Report No. CIB 98-10 (June 24, 1998) (unlicensed radio station in Philadelphia);
4. *News Release*, Report No. CI 98-11 (July 7, 1998) (Howell Township, New Jersey pirate radio operator);
5. *News Release*, Report No. CI 98-13 (August 18, 1998) (15 unlicensed radio stations in Miami area);
6. *News Release*, Report No. CI 98-15 (August 28, 1998) (four unlicensed radio stations in Cleveland);
7. *News Release*, Report No. CI 98-20 (November 9, 1998) (unlicensed radio station in Pittsburgh);
8. *News Release*, Report No. CI 98-18 (September 29, 1998) (unlicensed radio station in Memphis);
9. *News Release*, Report No. CI 98-19 (October 16, 1998) (unlicensed radio station in Detroit);
10. *News Release*, Report No. CI 98-29 (December 11, 1998) (unlicensed radio station in Gainesville, Florida);
11. *News Release*, Report No. CI 98-30 (December 16, 1998) (19 unlicensed radio stations in Miami area);
12. *News Release*, Report No. CI 99-5 (February 5, 1999) (unlicensed radio station in Greenwood, South Carolina);
13. *News Release*, Report No. CI 99-6 (February 8, 1999) (unlicensed radio station in Palm Beach Gardens, Florida);
14. *News Release*, Report No. CI 99-7 (February 16, 1999) (unlicensed radio station in Milwaukee, Wisconsin);

15. *News Release*, Report No. CI 99-8 (February 18, 1999) (unlicensed radio station in Oakland Park, Florida);
16. *News Release*, Report No. CI 99-9 (February 23, 1999) (unlicensed radio station in Howell, Michigan);
17. *News Release*, Report No. CI 99-10 (February 24, 1999) (unlicensed radio station in Bronx, New York);
18. *News Release*, Report No. CI 99-12 (March 4, 1999) (unlicensed radio station in Canyon Lake, Texas);
19. *News Release*, Report No. CI 99-17 (April 28, 1999) (unlicensed radio station in Brooklyn, New York);
20. *News Release*, Report No. CI 99-18 (April 30, 1999) (unlicensed radio station in Houston);
and
21. *News Release*, Report No. CI 99-21 (May 7, 1999) (unlicensed radio station in Grand Rapids, Michigan).

APPENDIX C

INTERNET MATERIALS CONCERNING "ABOUT.COM"



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In the Spotlight:

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Who? How? Why? The answers are all just clicks away.
- Airwaves For All**
Keep completely up-to-date on all the happenings - Sign up and tune in!
- The Latest Schnazz**
Brand-new links dug up weekly!
- The Enforcement Action Database**
v3.0 A running score on the war. Read [here](#) for the latest happenings.
- Doing the Chat Thing**
Take a peek - I'm usually hanging out in there when I'm online.
- The Amherst Declaration**
Free radio's first attempt at consensus-building [181 signatories].

Community

- Reach Out And Touch Me!**
I'm here for you - brain and all.
- Bulletin Board**
Spam-resistant and just waiting for a good thread!
- Chat Headline**
Real-time communication. Stop in and get acquainted.

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- Bookstore**
The ultimate pirate/free radio library is here!
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Most Recent Features...

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05/09/99 - A Second Round of Stalling - Ready for another two-month delay in legality?

05/02/99 - Time's Running Out - A how-to on filing LPFM comments with the FCC - from what to say to licking the stamp to clicking the mouse.

04/24/99 - The True Face of the Dark Side - NAB censors FCC Chairman's pro-LPFM comments during his annual convention speech!

04/17/99 - Beware the Propaganda - The broadcasting bigwigs have a mass-produced editorial coming to your newspaper soon - here's the antidote.

04/11/99 - They're Back! - In the face of the Feds - Free Radio Berkeley is back on the air!

04/03/99 - The Yugoslav Crackdown on Free Radio - The bust of B92 is total and severe.

03/27/99 - Free Radio Under Fire - Yugoslavia's B92 has the inside story on Kosovo - but at what cost?

03/21/99 - Less is More - How ten watts or less can also serve the public.

03/16/99 - First Skirmish - Enemies of legal low-power radio

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maneuver for the high ground.

03/07/99 - Gaining Speed - Both friends and foes of legal low-power radio are wasting no time in squaring off.

02/27/99 - The Brewing Congressional Conflict - NOW is the time to find LPFM allies in Congress - The work has already begun.

02/20/99 - Enforcement Action Database v3.0 - Tracking the FCC's police work in a much more user-friendly way.

02/14/99 - An Enemy End-Run - One man wants to kill legal low-power broadcasting - and he's got the power to do it.

02/06/99 - No Retreat - No Surrender - The FCC extends an olive branch to 'pirate' broadcasters; here's what they can do with it.

01/29/99 - It's Only Just Begun - The FCC's move to license low-power radio is a mixed blessing.

01/22/99 - ARD Takes A Stand - Americans for Radio Diversity issues its own battle cry.

01/14/99 - Coming Out - Maybe THIS will get 'legal' broadcasting's silent majority to say something!

01/07/99 - Another Attempt at Dialogue - No more guerilla war... This is the face of today's LPFM.

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The Enforcement Action Database

All the news about FCC actions against free radio begins as rumors. The Enforcement Action Database is an attempt to separate fact from fiction. It's also a study-in-progress of the FCC's patterns of enforcement. Explore, learn, and fight the power! Information in this kind of thing is traditionally sketchy; if you can fill any holes or have updated information, please don't hesitate to contact me.

Total Enforcement Actions: 114

Active States:

- Florida (31)
- California (14)
- Michigan (9)
- Ohio (7)
- Massachusetts (6)
- Pennsylvania (6)
- Tennessee (5)
- Texas (7)
- Washington (4)
- New York (5)
- Connecticut (2)
- Illinois (2)
- New Jersey (2)
- North Carolina (2)
- Maryland (1)
- Missouri (1)
- New Mexico (1)
- North Dakota (1)



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Free search

South Carolina (1)
Vermont (1)
Wisconsin (3)
Maine (1)
Kansas (1)
Other U.S. Territories (1)

By Month:

January - 4
February - 10
March - 8
April - 7
May - 6
June - 5
July - 23
August - 13
September - 5
October - 18
November - 9
December - 3
Unknown - 3

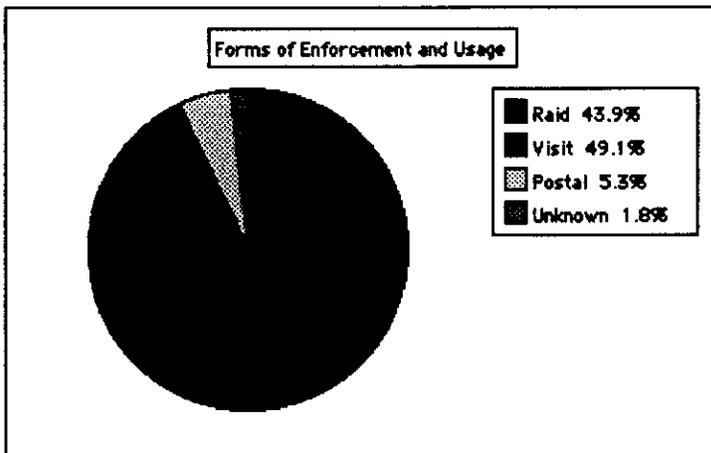
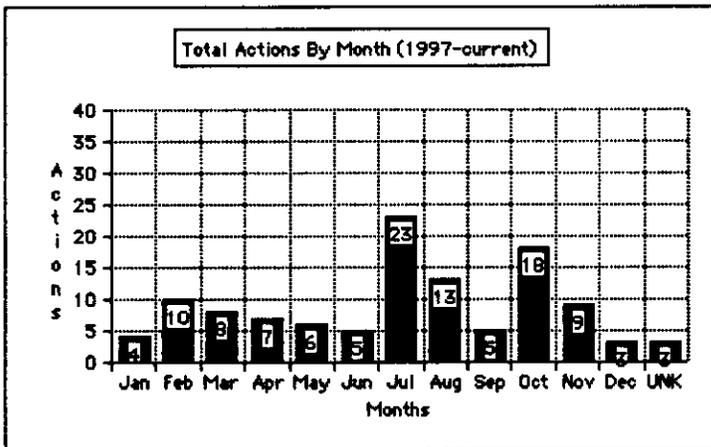
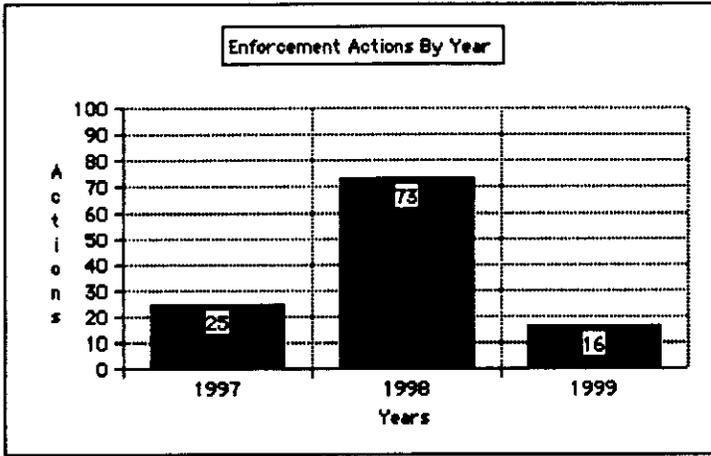
By Spectrum:

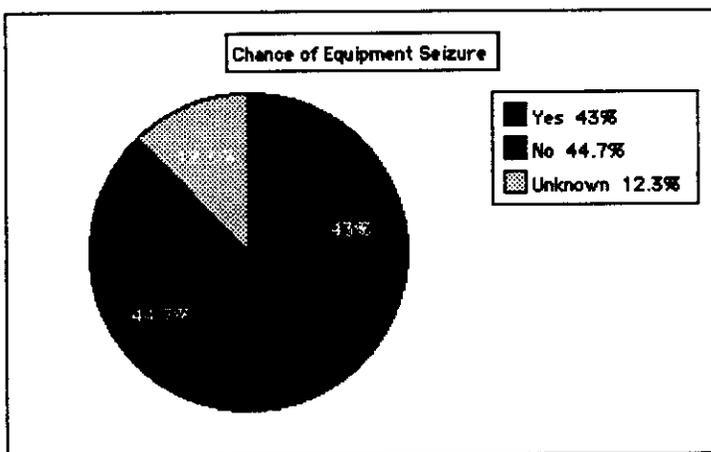
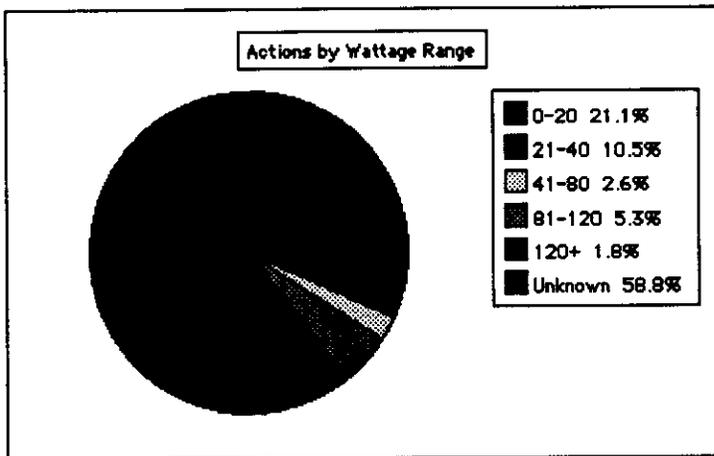
FM - 101
AM/SW - 6
Unknown - 7

Total Raids: 50
Total Visits: 56
Total Postal Contacts: 6
Total Seizures: 49
Total Fines: 12
Average Fine/Action*: \$4600
Average Wattage/Action: 26 watts**
Average Time on Air: 6 months**

* - where fines were issued
** - not statistically reliable due to unknowns

**Enforcement Summary - Charts and
Graphs**





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Buying Gear/Toys

ABC FM Transmitters

Irish purveyor of all things FM tx. Everything comes virtually plug-and-play.

Aftercoolers, Inc.

Makers of a patent-pending transmitter cooling system. Broadcast with chill.

Almost All Digital Electronics

Gadgets and gear for the kit-builder and homebrew junkie.

antenneX

The magazine entirely devoted to antennae (or is it antennas?)!

Broadcast-Warehouse Homepage

Well-designed Web page for a well-stocked supplier.

CPEQ Personal FM Transmitter

A real plug-and-play system for those who don't have the extreme technical knowledge but still want to be on the air. And all for around a hundred dollars (or 60, if you do the soldering yourself)!

Dan's Small Parts and Kits

Need that little thingamabob to stick between the transmitter and antenna cable to stop taking over your neighbor's TV? Find it here.

DANA'S Index of Electronic Manufacturers on the Web

Little bits of everything componentry-wise

Life can change with one roll.

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Decade Transmitters, Inc.

Canadian company selling their own line of low-power FM transmitters.

Fil's FAQ-Link-In Corner: LowPwrTx

If you're thinking about getting involved in the mini-FM movement, this page will help you get in touch with the major players that hold the goods to get you on the air.

FM Concepts

Selling 100mW to 1 W transmitters.

Gernsback Publications, Inc.

Online home for Popular Electronics and Electronics Now magazines.

Group 42 Sells Out!

The infamous group of electronic miscreants has finally succumbed to the lure of capitalism. They've issued a CD-OM chock full of the precious information they've culled.

Ireland Broadcast Electronics

Promising kits galore!

L.D. Brewer

One of the more popular places to stock up on essential gear. The proprietor also runs his own free radio station.

LPB, Inc.

Possible place to buy all the 'plug-and-play' gear you need.

MacProp

Calculate local propagation forecasts on your own PC! A demo version of the program (Mac only) is available here for download.

Mercenary Industries

Boston-based business with an emphasis on audio equipment of all kinds.

Micro FM Radio

Start-up consultancy with pointers on how to comment on the FCC's proposed LPRS rulemaking.

Mycal's 3-Meter Hacking Sources

A list of names, addresses and phone numbers for suppliers of all your pirate needs. From equipment to ideology, there's a contact to be found here.

North Country Radio

Supplier of RF, video and specialty kits for 'amateur and experimental use' (their words, not mine). Lots of goodies here!

PCS Electronics

European dealer with FM and AM gear available.

Progressive Concepts

Billing themselves as "your one-stop source for everything in broadcast electronics."

Promethius

Log yer DX contacts on the computer instead of by hand! Keep track of QSLs too! The demo software (Mac only) is available from this page to download.

Radio Archival Oddities

WFMU, an independent freeform station in New Jersey, has compiled a 90-minute cassette of some of the most bizarre and engaging broadcasts ever to cross the airwaves. Find a sample here.

Shawn Bass Productions - Pirate Radio Sweepers

Low-price deal for sweepers especially for the free radio enthusiast.

Tiare Publications: Shortwave Catalog

An extensive list of free radio related books for perusal and purchase. Shortwave, how-to, pirate, clandestine, it's all here.

UNI-HAT Antenna Corporation

More manageable antennas for the AM and SW broadcaster.

Wavematch Communications

One-stop shopping for your FM microcasting needs.

X Productions

A small-time free radio-friendly production company with a couple sound files of its work for your perusal.

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They're Back!

Dateline: 04/11/99

Stephen Dunifer, the founder of Free Radio Berkeley (FRB), has often been touted as the 'father of U.S. free radio,' and rightly so. He has been through a long and vigorous battle in the courts with the Federal government (via the FCC) over his San Francisco 50-watt operation.

As his activism continued, the press finally got wind - hence the nationwide acclaim. Dunifer's no stranger to working the press. Taken off the air after a setback in his case, Dunifer and FRB has been silent for nearly nine months now. Even so, it really came as no surprise when the following news release showed up today:

Despite a Federal Court injunction against its founder Stephen Dunifer, Free Radio Berkeley will return to the broadcast airwaves on Sunday, April 11 at 8 PM. Established as a Free Speech voice, a direct challenge to FCC regulatory authority and as a means to break the corporate stranglehold on the free flow of information, news and cultural expression, Free Radio Berkeley will resume a daily broadcast schedule as soon as circumstances permit. Citing compelling circumstances, former listeners and programmers decided to re-establish this alternative voice for the community despite potential legal and regulatory ramifications. Even though the Federal Communications Commission (FCC) is currently entertaining the possible creation of some type of low power FM broadcasting service, its proposal is severely flawed and faces incredible opposition from the National Association of Broadcasters.

Speaking on behalf of Free Radio Berkeley, Paul Griffin stated, "We

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have been silent for too long. The prospects of obtaining a license from the FCC at any time in the near future are very remote. We are going back on the air because that is what our listeners want us to do."

Again, Stephen Dunifer's timing is impeccable. While the process toward 'possible creation' of a low-power radio service finally gets underway, Dunifer will again hit the spotlight. This time, though, it looks like he's bailing out of it. This is both good and bad.

It's good because it will draw the FCC, who by our account is not slowing down its busts of unlicensed operations, into action. Defying a court order after such a lengthy battle will require it.

How the 'radio cops' handle the response will be equally important - a military-style raid on FRB definitely does **not** look good on the 10 o'clock news.

The badness comes from Dunifer's and FRB's rejection of the entire proposed licensing process before everyone's had a chance to comment on it. That includes you and me - the lack of actual details to the proposal shows the FCC's looking for some good ideas, and it appears the FRB crew think no idea must exist that could make them support some kind of legal low-power radio right now.

Even more dangerous will be the NAB's response. Using its unparalleled access to the broadcast media (since its members effectively owns most of it), be prepared for it to link FRB's attitude to the entire low-power radio movement. This could be mitigated if enough people sound off to make the point clear that they have **not** given up on the process, both to the public and to the FCC.

It's sad in a way; by taking back to the airwaves like this Dunifer's effectively killed his chances of getting any kind of low-power license that may be created in the future.

And, thanks to the tone of the rebirth, the Feds will be forced to respond in such a way that he might not ever get back on the air again.

Being a martyr is usually helpful to a movement, but let's hope the event doesn't kill what it died to further. Stay tuned...

Previous Features



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No Retreat - No Surrender

Dateline: 02/06/99

Now that the FCC has actually crafted a document proposing a legal low-power FM radio service, the subject has turned to what to do with all of those current 'pirate' broadcasters, who have taken to the air in the past or remain on the air today to show that such a service is viable on today's radio landscape. The FCC is well aware of that quandary, too - what happens if a 'pirate' applies to get a license? Below is the FCC's response, which kind of reads like a mixture of propaganda with veiled threats:

67. It is well established that the Commission is rightfully concerned with "misconduct which demonstrates the proclivity of an applicant or licensee to deal truthfully with the Commission and to comply with our rules and policies." Policy Regarding Character Qualifications in Broadcast Licensing, 102 FCC 2d 1179, 1190-91 (1986). Parties who persist in unlawful operation after the Commission has taken any of these enforcement actions could be deemed per se unqualified, and we seek comment as to the eligibility of such parties for a license in any new radio service. We seek comment on whether there are circumstances under which such a party could be considered rehabilitated. The reliability as licensees of parties who may have illegally operated for a time but have ceased operation after being advised of an enforcement action, however, is not necessarily as suspect. We seek comment on the propriety of accepting as licensees of low power (or microradio) licenses parties who may have broadcast illegally but have promptly ceased operation when advised by the Commission to do so, or who voluntarily cease operations within ten days of the publication of the summary of this Notice in the Federal Register.

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Who better to respond to this 'play by our rules or else' mentality than one of those broadcasters whose 'illegal' actions helped to bring this whole issue to where it is today, Free Radio Berkeley's Stephen Dunifer:

As you all know I have some major reservations and concern about engaging the FCC on their terms. While we attempt to create widespread response and support for micropower broadcasting, directing it toward the FCC during the comment period, we must not lose our focus. An exceptional opportunity exists now for a massive outreach and education campaign. Terms of debate and engagement must go beyond the rulemaking process. As a movement we need to frame the arguments around the concept of the airwaves being a public trust and resource and clearly defined First Amendment Rights.

Quoting from Gerry Spence's Justice for None:

"As newly freed people, our forefathers not only endowed us with the right but charged us with the duty to openly and lustily debate matters of public concern, to warn each other of new dangers to our liberty, and to hear each other and avoid the ensnaring traps of new masters. It is a certainty that the nation's airwaves, the most potent force for freedom ever invented by man, should be controlled by the people. Our right to uninhibited access to the means of free speech is as important as the right itself, for although we may be free to cry out our griefs and expound our beliefs, if our voices echo against dead walls, the right itself is as dead. The airways are ours like the sunshine, like the atmosphere. Yet in the hands of our enemies, the airwaves afford the most abominable tool of oppression ever conceived. They are the first seized by every tyrant.

The idea that in a democracy a free people should quietly accept the theft of their voice is, indeed, very radical. Our "eternal vigilance" must have flickered. Did we not understand what was happening to us? What was ours was transformed into the corporate cyclops and then turned against us."

This is the message we must bring to the general public. If we frame this issue within the larger context of the corporate control over our lives and the gagging of Free Speech rights, then we have a chance of going beyond the narrow boundaries inherent within the rulemaking process. Expanding the terms of debate and using this situation as a means to reach out to as many people as possible allows us to determine the rules and field of engagement. Most of the time folks use the excuse that nothing they do will matter anyway as a cop-out for not taking any action. With the right approach we can not only move folks to sending their comments to the FCC, we

can say to them: "If you are really committed to Free Speech and striking back against corporate hegemony, you can take the next step and put your own community voice on the air. Yes, there are risks but no one ever said fighting for your rights did not have a price".

I have said it before and will continue to say it - our greatest asset is the ability to put radio stations on the air, demonstrating to all concerned how inexpensive and easy (relatively) it is to do. By taking the course of non-violent electronic civil disobedience we forced the FCC to this point. It is not time to decrease the pressure but it is time to keep increasing it. Let them consider the prospect of hundreds, thousands of new stations going on the air. Stations set-up and run by every sort of person imaginable from senior community centers to hard core inner city housing projects.

We can do this. I and others in the engineering group are working on new transmitter designs that will be much easier to operate. We have other technical surprises waiting as well.

I will not be content with a few crumbs from an ever diminishing slice of pie carved from an ever shrinking pastry. It is the whole damn pie shop and bakery, that is what we need to seize. In the art of war the battle goes to the one who determines the field and rules of engagement. If the FCC wants to declare war on people exercising their inalienable right of Free Speech then let them reap the whirlwind of a major public relations disaster.

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What It's About

Dateline: 05/17/99

Even with all the increased 'illicit' activity on the airwaves over the last two years, there's still a huge knowledge gap out there.

One one hand, you've got the folks who just rented Pump Up The Volume, and think all 'pirate' broadcasters do is throw the necessary gear into a Jeep and find fame from foiling the FCC.

If Christian Slater was a real free radio broadcaster, he'd have been caught long before he could woo the girl and the cheering masses. Getting into unlicensed broadcasting involves knowing what you're getting into first.

You've got the legal aspect of things - setting up shop in ANY area where a licensed broadcaster reaches with their own signal will involve some risk, and you better know what those risks are.

If you go ahead with it, be prepared for some sort of backlash - although how the FCC will come down on you seems to be decided with a roll of the dice.

And how to do it? You need to know something about how radio works, and then decide just how to get your message out - be it FM, AM or shortwave. Your signal must be clean technically, from CD player or microphone to antenna.

It's possible to build your own station yourself, but it's safer to buy

Lowestfare
Save 20% on a Major Airline!

- ShopCenter
- Free bug's life
- cash online
- buying imports
- fabulous festival
- professional services
- win cash prizes
- my show/drama
- internet codes
- online sports
- buy cool clothes
- market online deals
- the shopping
- online casino
- join a book club
- shop till you drop

Life can change with one roll.

InfoCenter
TV listings
Spotlight on Sci-fi
Fiction
Romance
Free
TV
numbers

off the rack. Just how serious you are about the subject will determine just what kind of setup you construct.

If the risk seems too much to transmit, you can always listen - plenty of 'pirates' from all over the world now send their signals out on cyberspace as well as over-the-air.

And legal free radio may be just over the horizon, although those already in the 'radio business' are doing everything they can to shoot it down.

Regardless of THAT outcome, radio rogues won't go away, ever. Be it the love of the medium or the need to get the message out, scanning the dial will always bring surprises.

We've taken the mysticism out of the movement, though - what's written above is just a taste of what it's all About. You can track the tit-for-tat between free radio broadcasters and the 'authorities,' correspond and collaborate with those on the air, tune 'em in, or do it yourself - whatever you want, it's here.

And so am I. Help, advice and answers are always around. This is like having a brain attached to the Internet at your service all the time. Use it - find it - question it - and it's nice to meet you.

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CERTIFICATE OF SERVICE

I, Barbara Lyle, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that on this 2nd day of August, 1999, copies of the foregoing "Comments of the New Mexico Broadcasters Association" were hand delivered to the following:

The Honorable William E. Kennard
Chairman
Federal Communications Commission
The Portals II
445 12th Street, S.W., Room 8-B201
Washington, DC 20554

The Honorable Susan Ness
Federal Communications Commission
The Portals II
445 12th Street, S.W., Room 8-B115
Washington, DC 20554

The Honorable Harold Furchtgott-Roth
Federal Communications Commission
The Portals II
445 12th Street, S.W., Room 8-A302
Washington, DC 20554

The Honorable Michael K. Powell
Federal Communications Commission
The Portals II
445 12th Street, S.W., Room 8-A204
Washington, DC 20554

The Honorable Gloria Tristani
Federal Communications Commission
The Portals II
445 12th Street, S.W., Room 8-C302
Washington, DC 20554



Barbara Lyle