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

In the Matter of	)	MM Docket No.99-25
	)	
Creation of a Low	)	RM-9208
Power Radio Service	)	RM-9242

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

Comments of Alan Potamkin

As a former radio and television broadcaster, I am troubled by the proposed LPFM plan. It would be a terrible mistake to implement it. Recently, the Telecommunications Act of 1996 attempted to solidify a weakened radio industry by allowing consolidation. There is a strong argument to be made that the fragmentation of radio, caused in part by Docket 80-90, necessitated that consolidation. Today, radio is again faced with that same fragmentation. This time, it will come from a source that cannot be counteracted by terrestrial radio. That source is satellite radio. With two services about to launch 100 channels each, every local radio station will be faced with new competition from an additional 200 stations. Why compound this vast listener fragmentation by adding more terrestrial stations?

It is ironic that much of what the FCC is attempting to accomplish with LPFM is to give small broadcasters a voice in the community. Yet, the recent changes made by the FCC through implementation of the Telecommunications Act have put the "squeeze" on small broadcasters in the worst way. Firstly, the small broadcaster has been forced to compete with large chains of stations, which are often held by public companies. Secondly, he has lived by, and will continue to have to live by, strict and often onerous interference rules. If LPFM is passed, the "new" LPFM operators, who are for the most part "non professional broadcasters", will not have to live by those same rules, nor will they have to provide the broad range of public service to the community that the small commercial broadcaster has and does.

It has been my observation that many of the people who are attempting to further the LPFM proposal are those with "special interests" and "personal agendas" to further. In the case of noncommercial radio, why would any reasonable person want to spend money out of their own pocket [to broadcast] if they did not have a particular agenda to pursue? In the case of commercial low power stations, why should anyone be granted a free license, and then enjoy living by relaxed regulations, when the rest of the commercial broadcasters live by a much more stringent and demanding set of rules?

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The LPFM proposal pays tribute to, and lends credibility to pirate broadcasters who feel that they are personally entitled to a piece of the broadcast spectrum, regardless of the price to the rest of society. To exemplify this point, I am attaching an article from the *Martha's Vineyard Times*, dated July 15, 1999. You may note that the people mentioned in the article, who plan on putting this pirate station on the air, state, *"Although the FCC has not usually sought out 'pirate' stations..."* To legalize low power stations, would be to legitimize these "pirate" stations , and therefore condone their illegal activities. If pirates have no regard for the Federal Laws prohibiting illegal broadcasting, why would they have regard for obscenity or engineering regulations?

I do not understand how, all of the sudden, second and third adjacency protections have become unnecessary. If this is indeed the case, allow this newly found benefit to inure to those that have struggled and toiled under the current system. Allow them new translators and repeaters formerly unavailable to them. Those are the broadcasters who will be facing the biggest challenge when satellite radio adds 200 channels to the radio landscape in each market. Those are same broadcasters who may need that very spectrum [you are contemplating utilizing for LPFM] for the transition to in-band digital transmission.

There are too many factors, which make LPFM unfeasible at this time. I am strongly against it, and hope that you will consider my thoughts prior to taking any action.

Sincerely,

Alan Potamkin

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Enclosures

July 21, 1999

MEDIA

By Maria Danielson

Pirate Radio Station Set To Rock Island

Change is in the wind for the local airwaves. WMVY (92.7) has just completed a technological makeover that will enable it to broadcast 24 hours a day, and two new stations are poised to jump on the air and add a new twist to the local FM dial. One is 90.1 WCAI, a licensed station based in Woods Hole (see story below). The other, is 98.7, Free Radio Martha's Vineyard (FRMV), an unlicensed (a.k.a. "pirate") microstation soon to start transmitting a free-form mix of music, news, and theater from a barn in West Tisbury.

In an act of electronic civil disobedience that violates current Federal Communications Commission (FCC) regulations, Bill Morancy of Oak Bluffs and cohorts plan to launch a new, non-commercial, low-power station that he estimates will reach 80 to 90 percent of the Island. A beam will be transmitted from a 35-foot whiplash antenna on a West Tisbury barn to a house on a hill, where the signal will be amplified to 40 watts. Within the next few weeks, Island radios within a direct line of sight of that hilltop house (those not in a hollow or at the bottom of a hill) should be able to tune in to FM 98.7.

Mr. Morancy, longtime resident who sports a long salt-and-pepper beard but no eye patch, is "going into this with eyes wide open," he said, knowing full well that if he transmits unlicensed radio waves he could face a five-figure fine from the FCC, which does not currently grant licenses to any FM stations broadcasting below 100 watts.

"We just want to be able to talk to each other as a community," he said. "We want to provide a radio station which is as diverse, as interesting, as cosmopolitan, and as rich as our community. If the FCC chooses to come and try and stop us, we'll go into federal court and seek an injunction enjoining them from shutting us down while we make a case based on free speech. We're not going to do this in secret. You can't do anything secret here. Secret? On Martha's Vineyard?" he added, laughing. "We have a young lawyer in Edgartown who is eager to take on the case — if it should become a case."

That lawyer is Daniel Larkosh, who said he is "going to try to be ready to deal with any problems he may have with the legal status of the station. "We're anticipating some reactions. I admire people like Bill who stick their neck out and stand up for what they believe in. And I agree with him when he says that corporate radio is not really a voice of the people and not always responsive to the needs of the community."

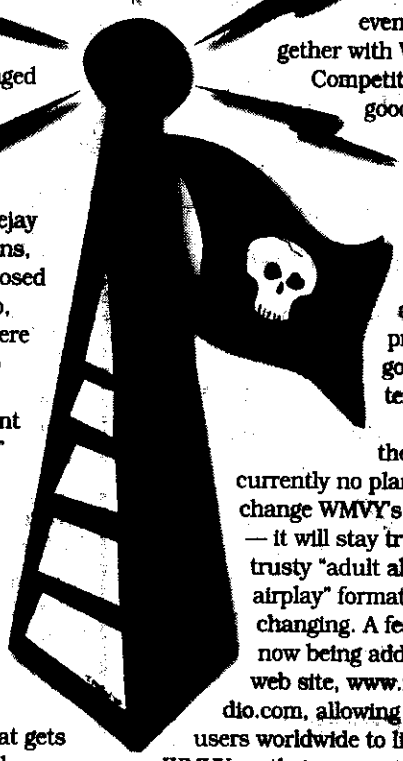
Mr. Morancy is taking a tack that was tried with near success last year by Stephen Dunifer of Radio Free Berkeley, the maverick microbroadcaster credited with spurring a national movement. "He got a court to grant him an injunction for five years, which he used to stay on the air and build support and goodwill," said Mr. Morancy, who believes he can count on that kind of support on Martha's Vineyard. Microbroadcasters nationwide were heartened when a federal judge authorized Mr. Dunifer to continue broadcasting pending a decision and instructed the FCC to examine the propriety of its regulatory scheme. The FCC is currently processing comments as it deliberates on possible rule changes concerning low-power licenses. Meanwhile, Mr. Morancy is positioning himself to catch the wave of change and make his own airwaves.

A procedural mistake ultimately silenced Radio Free Berkeley last year, "when the court finally rejected Dunifer's case on the grounds that he had failed to file an application with the FCC in the first place. I have been in contact via the Internet with Dunifer's lawyer. He sent me all the forms I

need to send to the FCC to protect our rights. It's called 'exhausting your administrative remedies.' Of course, we know ahead of time that the FCC is not going to approve our application."

A Ground Swell of Pirates

The FCC may choose to turn a blind eye on FRMV as it decides how to handle the recent proliferation of unlicensed microbroadcasters nationwide, a ground swell fueled in part by technological advances and in part by a citizen backlash against the corporate consolidation of the radio industry that has ensued since deregulation changed the number of stations that can be owned by a single entity. Local deejay Mike McLaughlin explains, "Deregulation was supposed to spread out ownership, but it backfired. Now there are only five or six radio groups that dominate something like 80 percent of radio in this country."



Mr. Morancy may be trying to swim against the tide of consolidation himself, but he can appreciate the business sense in it: "All the big fish are gobbling up the little fish. You can see why, it's just simple economics. The thing that gets me is that stations like the one we're starting are called 'pirates,' but in fact the people who have taken our publicly owned airwaves from us are piratical. We're just the people. We're not trying to make money off one another."

In the radio business, listeners are money. Businesses can get edgy when they think they might be losing money. Although the FCC has not usually sought out "pirate" stations, it does respond when it receives a complaint from a licensee that its market is being impinged upon by an unlicensed broadcaster.

That means that the licensed stations in the area hold a powerful trump.

WMVY Responds

Joe Gallagher bought WMVY last summer for a $1 million, a bargain (the previous owners paid two and a half times that). Mr. Gallagher is the president of the Rhode Island-based Auritaur Communications that owns five other stations in Massachusetts and New York. Does Mr. Gallagher feel concerned that new stations might take loyal WMVY listeners? "No," he replied in a telephone interview. "That's not a very enlightened view of the world. We would like to possibly even work together with WCAI. Competition is a good thing. It's not a matter of distribution but of being able to provide good content."

Though there are currently no plans to change WMVY's content — it will stay true to the trusty "adult alternative airplay" format — it is changing. A feature is now being added to its web site, www.mvyradio.com, allowing Internet users worldwide to listen to WMVY on their computers. And the actual studio itself was completely overhauled recently, giving the station the technical capability to start broadcasting 24 hours a day, sometimes unmanned, beginning in mid-August.

"We have brought the station to this century," said Mr. Gallagher. "Now we have digital editing, digital music storage. All the music is on a hard drive. It makes things more efficient, so you can reallocate your time."

With these changes, people can't help but speculate on whether Mr. Gallagher plans to sell it. He "understands why they would, given the fact that I am in the process of selling five other stations." But, he added, "I have no plans of selling WMVY. I was offered double what I paid for it the day after I bought it. Did I accept the offer? No. Would I consider $5 million? Of course."

Playing It By Ear

By contrast, a low-power home-transmitting kit now costs between $500 and $2,000. According to Mr. Morancy, FRMV has enough capital to get equipped and operate for about a year ("I sold my motorcycle," he admitted).

"We don't have money for a music collection, but we have already recruited 10 or 11 deejays with extensive collections of their own," he added. All unpaid volunteers, of course.

Islander Peter Simon, who said he is "bucking the depressing trend towards automation" in his own WMVY show "Private Collection" (Sundays 8 to 10 pm), doesn't see much promise in the free-for-all format of Free Radio. "There won't be any money in it, so they won't get any good air talent," he said. "It will probably be worse than a college radio station."

Mr. Morancy said he is open to anything and welcomes volunteers. "The important thing is that there won't be block programming. You could be listening to a Bach cantata, and then following that could be a Bill Cosby routine and then some swing from the '20s. You'd never know what was next."

He plans to have a hot line listeners could call to leave a minute-long message about anything, resembling a letter to the editor, which would then be edited and broadcast intermittently, along with music, poetry, and theater.

"And we can broadcast high school football games again!" said Mr. Morancy.

"If those of us involved in this project thought WMVY was truly serving this community the way we deserve, we wouldn't have started this in the first place," Mr. Morancy added. "It is our position as an organization that we have the right to use a portion of the publicly owned airwaves in order to communicate with ourselves as a community. That's exactly what we intend to do."