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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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	)

To: The Commission

COMMENTS OF INTERMART BROADCASTING

InterMart Broadcasting Gulf Coast, Inc., and InterMart Broadcasting West Coast, Inc. ("InterMart") by their attorneys, herewith file their Comments on the *Notice of Proposed Rule Making,* 14 FCC Rcd 2471, released February 3, 1999 ("*NPRM*"). Time for filing comments on the *NPRM* has been extended to August 2, 1999.

Introduction

InterMart Broadcasting Gulf Coast, Inc., is licensee of Class C3 FM Station WCCL(FM), Punta Rassa, Florida. InterMart Broadcasting West Coast, Inc., is licensee of Class A FM Station WWWD(FM), LaBelle, Florida.[1] The Commission proposes the creation of a new low power radio service on the FM band that would result in the allotment of three new classes of stations: (1) stations operating with 1000 watts effective radiated power ("ERP") with antennas at a maximum 60 meters (197 feet) above average terrain ("HAAT"), to be known as "LP1000" stations; (2) stations operating with 100 watts ERP at a maximum 30 meters (98 feet) HAAT, to be known as "LP100" stations;

[1] WWWD(FM) is a party to a rule making proceeding that would upgrade WWWD(FM) to Class C3 status.

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and (3) stations operating with 1-10 watts ERP at a maximum 30 meters HAAT, to be known as "Microradio" stations. InterMart herein shows why LPFM should not be created.

A. LPFM Will Severely Restrict Small-Market Broadcasters in Their Attempts to Improve Service to the Public

As noted above, InterMart is the licensee of a Class A and a Class C3 FM station. It is InterMart's experience that such stations can sometimes upgrade to higher class channels through "one-step" applications for construction permits and by petitioning to amend Section 73.202 of the Rules (Table of Assignments). Such upgrades are dependent on the proposed facility being properly spaced from other facilities. Sometimes, it is necessary to enter into arrangements with other broadcasters to change their frequencies in order to upgrade a station. InterMart believes that the adoption of the LPFM proposal would so restrict the ability of small-market broadcasters to relocate or upgrade that it would make it very difficult or impossible to do so.

This would have a severe adverse impact on the public interest since upgrading stations results in increased and improved service to more persons.

B. Pirates

InterMart has had personal experience with the damage done by pirates, i.e., persons operating unlicensed radio facilities. In at least two cases, pirates were operating on channels assigned to InterMart's unbuilt FM stations. When InterMart personnel called the pirates (who gave out their phone numbers on the air), InterMart was assured that the pirates would change channels prior to the InterMart station beginning operations.

InterMart called these matters to the Commission's attention, but no direct action was taken, to InterMart's knowledge. InterMart is concerned that the "amnesty" provisions of the *NPRM* will not only reward pirates for their illegal conduct, but telegraph to them that they may continue to operate in their brazen manner and get away with it even after LPFM stations are licensed. InterMart believes it is naive for the Commission to conclude that the initiation of operations by LPFM stations will mean an end to pirates. On the other hand, the licensing of numerous new low power stations will create opportunities for pirates to operate with impunity.

C. Enforcement Issues

The FCC has traditionally decried its limited resources in maintaining its enforcement responsibilities, relying on self-enforcement, in many cases. Authorizing thousands of new LPFM stations would add to the Commission's enforcement burden. The Commission can be sure that its proposal to license the stations only to neophytes and former pirates will guarantee that the Commission will not be able to keep the stations on their assigned frequencies or operating at their authorized powers. The result may be that the Commission will find itself asking Congress for more money to cope with an enforcement crisis that can be avoided by not authorizing LPFM stations.

Conclusion

InterMart respectfully urges the Commission to terminate this proceeding without creating an LPFM service.

Respectfully submitted,

INTERMART BROADCASTING,
GULF COAST, INC.
INTERMART BROADCASTING,
WEST COAST, INC.

By: _____
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August 2, 1999