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| In the Matter of | ) | MM Docket No. 99-25 |
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| 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

The following are the comments of Z-Spanish Media Corporation, Sacramento, California (A Commenter). Commenter is licensee of thirty four (34) commercial AM and FM stations, all which broadcast in the Spanish language or other ethic (non-English, non-Spanish) formats. Commenter is the largest Hispanic-controlled licensee (in total number of stations) in the United States.

Commenter does not seek to duplicate the engineering analysis of the National Association of Broadcasters and other parties more technically qualified than Commenter. It does, however, intend to bring a different perspective to the Commission's initiative on the proposed use of existing FM frequencies for a new Low Power FM service (LPFM).

The discussion and implementation of LPFM is truly untimely at this point in time. The technical issues surrounding the implementation of digital audio broadcasting (ADAB) are not yet resolved. No determination has yet been made as to which DAB standard will be used. Without such a determination on DAB, without extensive controlled engineering experimentation and analysis any conclusions about the interference effects of LPFM are dangerously speculative. Commenter believes that any precipitous action by the FCC which could result in a technical degradation of the FM band, or which could lessen the ability of all stations to provide a digital signal in the future, a signal necessary to compete with the rest of the electronic media which will be providing digital service in the near future, would be to violate the Commission's mandate to regulate in the public interest.

While Commenter does not have the expertise to present to the Commission a detailed engineering analysis such as that which we understand will be prepared by the NAB and other industry associations, Commenter does have experience with technical issues of interference in the real world context of operating broadcast stations. The Commission's proposals on changing FM co-channel and/or adjacent channel protection requirements will not change the laws of physics and no proven technology can adequately eliminate the interference that would be caused by these proposed LPFMs.

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Among the stations most impacted will be suburban FMs, whose listeners in urban areas will likely lose services. Several of Commenter's stations fall in this category. Commenter would also note that many other of these suburban FMs are minority-owned and minority-programmed stations. Such stations are often the best way for groups providing service to minority groups and other non-mainstream audiences to get into the current radio marketplace. These stations often provide service beyond what the Commission would routinely consider their protected or predicted service contours, as their audiences tend to seek them out on the radio dial. Yet these stations, who are already providing the types of diverse services that the Commission seeks to foster by the adoption of LPFM, would be the ones most likely to suffer technically from the adoption of the LPFM proposal which would, no matter what engineering standards are proposed, squeeze in hundreds or thousands of new stations, creating new interference in areas where these suburban stations currently have significant numbers of listeners. Commenters own tests have noted significant interference exists with present protection limits, a condition certain to be exacerbated if the Commissions proposals are accepted.

One of the Commenters primary concerns regarding LPFM is the general misunderstanding of certain aspect of the economics of commercial radio broadcasting. While a portion (perhaps 25%) of the more than 10,000 U.S. commercial radio stations are consistently profitable, a far larger number are marginal, and oftentimes consistently unprofitable. For this largest number of stations at the bottom of the pyramid, however, any new competitors for listeners and advertising dollars, no matter how marginal those competitors may be, can be disastrous. The proposed LPFM stations will be primarily in small and medium size markets, where existing stations are least likely to survive the effects of new entrants (this also means LPFM stations are least likely to succeed.). Again, the Commissions proposal will be most likely to hurt the locally owned, independent stations who are already providing a unique voice to their communities, not the large group owned stations. Thus, the Commission's proposal may well harm diversity instead of enhancing it.

There is a further general misconception regarding the financial and managerial abilities of the thousands of persons and entities that have expressed interest to the FCC of having and operating an LPFM. It is an entirely a different matter to have inexperienced individuals and non-profit organizations attempt to construct and operate these LPFM stations as long-term viable businesses. It is quite another matter to have well-established and well-funded schools and colleges support a small LPFM station. If LPFM is enacted at all, it should be designated as a totally non-commercial service, and confined to the non-commercial frequencies.

The clamor for LPFM is based on the erroneous conclusion that local airtime is not available to individuals, churches, and community organizations. Such a conclusion ignores the large and growing industry of air block time sales to ethnic, religious, and other community groups. This type of multiple access broadcasting segment is already flourishing in the AM band. Commenter is the licensee of several stations which program these block time formats. Every major market has at least two full-time block time stations, and many other stations will sell some bock time during specific day or hours. The hourly access to radio air-time through block-time stations is at prices affordable to even small groups and organizations. In medium and small markets, even more time is available, and at even lower prices. To this availability must be added non-commercial educational stations which often carry programs of local organizations at little or no charge. Commenter's experience has also been that most non-profit community groups, having limited resources, cannot realistically program and operate the 12 to 24 hours per day that their own LPFM station would require. It is part of human nature that the appetite is often larger than the stomach.

Given the advance of technology, the need for an LPFM service which could degrade existing FM radio has not been demonstrated. As set forth above, opportunities already exist for groups to have their message distributed by the broadcast media. The Commission must not forget the radio technology of the Internet. The ability for virtually anyone to have an Internet radio stations is fast becoming a reality. And with the spectrum that the Commission is making available for flexible wireless uses, new technologies may well arise in the near term allowing Internet or other broadcast like services to reach listeners in a mobile environment, and not just when in front of their computers, thus providing new opportunities for whatever unserved groups may exist to get their message to interested people.

In conclusion, from Commenter' s own broadcasting business experience, the Commission's current proposals for LPFM are fundamentally unsound on an economic and technical basis. To the extent that a limited number of non-commercial educational LPFM stations could be added to the existing educational portion of the FM band, Commenter believes that this would best serve the public. If this were to happen, Commenter strongly recommends that there also be stricter financial qualifications for applicants, and that these new licensees be properly qualified and registered non-profit organizations.

Respectfully submitted,

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