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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

"Las 3 Grandes — Complete Communication with Tucson's Hispanic Population"

Docket No. MM 99-25
(RM-9208, RM-9242)

Comments

I, Art Laboe (legal name: Arthur Egnoian), hereby respectfully submit my comments with respect to the Notice of Proposed Rulemaking in the matter of low power radio.

I did my first radio broadcast in 1943, when I was 18 years old. Radio Broadcasting has been my life. Since 1943, I have held a General Radio Telephone License and a Second Class Radio Telegraph License and a Class A Amateur License since 1940. In 1996, I finally accomplished a life long ambition of owning a radio station. I am currently the controlling owner of three commercial radio stations serving Tucson, Arizona – KXEW (AM), KOHT (FM) and KTZR (AM). After acquiring these stations in 1996, I have dedicated them to serving the Hispanic community in our area. As an indication of our success, we hold Tucson's all time record attendance for our free concert at Kennedy Park with 20,000 in attendance and many other free events on holidays such as Mexican Independence Day, Cinco De Mayo and 4th of July. I am very proud of the service we have rendered to this community and we intend to continue to do so.

I realize that the Commission is unlikely to act upon broadcaster's competitive fears over the impact of low power FM, since the Commission's philosophy is to let the operation of the marketplace solve most competitive concerns – except, that is, in the extreme instances in which intervention is necessary. At least in the Tucson market, that is the case here.

Appendix D of the Notice of Proposed Rulemaking presented a study of the number of LP 1000 and LP 100 radio stations that could be added to each of the 60 test markets, both under an assumption of continued full current interference protection and lesser protection involving elimination of third- or second-adjacent channel protection. The numbers which would result for the Tucson market were frightening in comparison to the others. In all 60 markets, the Commission predicted a total of 33 LP 1000 stations, assuming full interference protection (that is, an average of one half station per market). In Tucson, however, there would be six! Without third adjacent channel protection, a total of 146 LP 1000 stations might be possible (that is, an average of 2.4 stations per market) in Tucson, there would be nine! The numbers are equally extreme for LP 100 stations. Without translator protection, a total of 123 station might be authorized (that is, two per market), while Tucson could obtain 24! (No other market would have more than 10.) Without third-adjacent channel interference protection, 447 LP 100 stations (7.5 per market) might be possible, as compared to Tucson's 34! With translator protection, 71 LP 100 stations might be possible with third-adjacent channel protection (1.2 per market), but Tucson could receive 13! And so it goes.

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The Commission (and Congress) has focused its concerns on issues of spectrum interference rather than the economics of this situation. But the numbers for Tucson are so extreme that they promise to destroy broadcasting as we know it and the public service which stations like mine are able to render to their communities. In this regard, I respectfully note that according to the most recent Broadcasting Yearbook, Tucson is served by 12 commercial AM stations, 10 commercial FM stations and 5 non-commercial educational stations (AM and FM). I further note from the Ranally Commercial Atlas and Marketing Guide that the Tucson urbanized area stretches barely 10 miles from one end to the other. According to the Commission, an LP 1000 station would have a service range radius of approximately 17 ½ miles, far more than enough to cover the entire urban Tucson market. Similarly, an LP 100 station would have a service range of 7 miles, which would cover all but the fringe area from a central Tucson transmitter location.

Injecting six or nine LP 1000 stations and/or 24 or 34 LP 100 stations into the Tucson market, especially all at once, would devastate the 22 existing commercial stations. Not only is it unfair to those of us who acquired and invested in improving our stations on the basis of long-term competitive stability, but this will have a terrible impact on our ability to serve the public interest. For example, we have the only Indian Public Affairs program in the area, we do free community attended events specifically for the Hispanic community, we sponsor sporting teams for youngsters and our personalities make anti-drug and anti-crime speeches at local schools to name some of the things we do with monies derived from free radio as we know it in the USA. Through the research and recommendations of the stations, The Art Laboe Foundation donates several scholarships to Tucson high schools and colleges. I fear that all this will be not only threatened but destroyed by the Commission's low power radio proposal.

While the Commission may dismiss broadcasters' general fears in other markets where the impact may be far less severe, I truly fear for the survival of not only my stations but those of my competitors here in the Tucson market. I recall that the Commission has estimated that slightly over 1000 new FM stations were created across the entire country as the result of Docket 80-90 (that is, a few per average market). That number pales beside the intended impact of the present proposals on Tucson. By the Commission's own count, the number of stations able to serve the entire Tucson area could triple. I do not see how the public interest could possibly be served by an event of such devastating and obvious impact. Therefore, I urge the Commission to consider its own example of how its proposal would truly destroy the Tucson market. The Commission's new low power service will replace all existing stations in Tucson, rather than supplement them. This is a result that cannot have been intended.

Respectfully submitted,

Arthur Egnoian
professionally known as Art Laboe

7/28/91