

some evidence demonstrating public opposition to community radio. And we believe the total lack of such evidence effectively and totally undermines our opponents' positions.

As our letter-writing campaign came to an end and we learned about the F.C.C.'s imminent plans to release MM Docket 99-25, we embarked on a new four-part strategy: working at the Congressional level, the state level, the city and county level and also with community groups. We assisted Congressman Bonior with a support letter eventually signed by 28 members of Congress, Senator DeBeaussiaert with a letter signed by 13 Michigan senators, and freshman State Representative Paul Gielegem with a letter signed by 15 members of the State House.

We also began efforts to get our state-level resolutions re-introduced. However the political calculus had changed dramatically following the election. Term-limits were mostly responsible for over half the state house being replaced (including Rep. Freeman), with Republicans taking control. Republicans maintained control of the State Senate. Because of contentious partisan politics, we were told repeatedly that a resolution introduced by a Democrat could never make it out of committee. However, and despite considerable efforts on the part of the M.A.B., on April 20, 1999 Democratic Representative Gloria Schermesser introduced HR67, which again gained 38 co-sponsors. And on May 4, Republican Senator Mat Dunaskiss introduced SR53, gaining 12 co-sponsors. Both resolutions are presently in committee.

We launched yet another letter-writing campaign in support of these resolutions, and produced yet another 800 or so letters (copies available for inspection).

At that point, early May, we began working on the substantial task of drafting these comments. With the public comment period on MM Docket 99-25 now having been extended to Sept. 1, we felt we had plenty of time to worry about our resolutions in the Michigan Legislature.

On June 1, with a draft version of our comments completed, we again contacted Lansing about our resolutions -- and were shocked to learn that both chambers planned a summer recess beginning on June

10. And they would not resume session until Sept. 14, 1999 -- after the end of the public comment period!

After gathering 4,000 constituent letters for these resolutions, among other things, we were crushed. However, by June 3 we had regrouped and begun a campaign for discharge motions in both chambers. By June 4, Rep. Buzz Thomas agreed to make this motion for us in the House. On June 7, we spent the whole day in Lansing, visiting every single senator's and representative's office, urging their support for HR67 and SR53 at this critical juncture.

During the week of June 7-10, the office of Rep. Mary Middaugh, chair of the Energy & Technology Committee, where HR67 had been referred, apparently engaged at least twice in a deliberate policy to confuse and deceive our volunteers, who called to ask her to not oppose the discharge motions.

On June 10, Sen. V.C. Smith and Rep. Schermesser made our motions to discharge SR53 and HR67. In the Senate, the discharge motion was defeated along party lines, 16-20. The House version was similarly defeated, although a recorded vote was not taken.

Many have told us that they would have supported community radio, and in fact, we can probably demonstrate support of a majority of the Michigan Senate and House based on letters, co-sponsorship of the resolutions, signatures on our comments, etc. However, many told us they voted against the discharge motions simply out of respect for "the established committee process."

To put this in perspective, as of today we have passed about 25 city council resolutions in support of community radio. Every single one has passed unanimously! This amounts to well over 200 mayors and council members -- what are the odds they would all vote exactly the same on any issue!? Meanwhile, we had gathered 4,000 constituent letters, finding virtually unanimous support for community radio on the street. To our knowledge, exactly one letter was ever presented in opposition to our resolutions -- from the powerful Michigan Association of Broadcasters. We later learned that Rep. Schermesser (and others)

herself had written to Rep. Middaugh four times, asking for action on HR67 in Middaugh's committee. According to Schermesser, Middaugh simply "refused to budge." Thus, one person was able to singlehandedly thwart the democratic process, and the will of 4,000 Michigan letter-writers and 200 mayors and council members!

This is how we define "undue influence of the broadcast industry over the regulatory process"!

We too respect the "established committee process." But, according to Michigan's *A Citizen's Guide to State Government*, "...arbitrary refusal of a committee to report a bill can be remedied by a motion to 'discharge the committee from further consideration...'" This certainly seems like a textbook example of "arbitrary refusal," and in this case the discharge motions were further justified due to the emergency nature of the matter.

As stated, about 25 Michigan city councils (also townships) have passed resolutions favorable to community radio. About 80 of our volunteers are working on this project, and approximately 40 more cities are pending. Among those which have passed already are: Detroit, Ferndale, Hazel Park, Hamtramck, Ann Arbor, Howell, Southgate, Wyandotte, Ecorse, Trenton, Taylor, Mt. Clemens, Melvindale, Marysville, Lincoln Park, Farmington, Washington Twp., Grosse Pte. Woods, Shelby Twp., Livonia, Royal Oak, Dearborn and Bruce Twp. Together, these cities represent about 1.8 million Michigan citizens. Additionally, the Washtenaw County Commission has also passed a resolution in favor of LPFM.

And we have successfully lined up the support of many community groups; religious, social justice, labor, political, etc.

This activity has been sufficient to warrant considerable local media coverage – although almost entirely from the press, with very little reporting from local broadcasters on this issue! This curious fact raises questions about local broadcasters' commitment to their public interest responsibilities, at least when

their own interests are at stake. In fact, over the past two years when trying to discuss the topic on local talk radio shows, we have usually never made it past the person screening the calls. One DJ who had slipped up was later taken aside by his boss and told ominously, "We're not going to have any more discussion about programming on the air, are we?" The irony is bedazzling -- we can't even use our own public airwaves to debate who is allowed to use our public airwaves!

Two and a half years later, our weekly meetings continue, well over a hundred by now. Clearly there is enormous and sustained support for community radio and local music in our city.

There are two possible explanations why Michigan has so much more comprehensively demonstrated public desire for community radio -- our city and state resolutions, our Congressional leadership on this issue, etc. -- than other parts of the country. On the one hand, perhaps by some miracle of geography it is only Michigan citizens who really demand community radio. On the other -- a much more likely explanation -- is that in Michigan, extraordinary circumstances led to the evolution of an effective citizens' lobby. We are positive the demand for community radio is universal -- why would it exist just in Michigan? However, in other parts of the country, sympathetic elements were simply unable to coalesce in the way it happened here. This model suggests a crucial need to strengthen communication options and abilities for communities across the country -- such as could be provided through LPFM. It also casts substantial doubt on the claim of Commissioner Furchtgott-Roth that existing methods of communications -- flyers, etc. -- are sufficient for communities to interact.

We incorporate by reference the documents stated in the above section.

3. WHAT DOES THE PUBLIC WANT?

The single most fundamental issue concerning community radio must be the F.C.C.'s public interest standard, which Chairman Kennard correctly refers to as the agency's "bedrock principle." Only after this obligation has been satisfied can the agency legitimately consider other issues.

What does the public have to say about community radio?

We and others in the movement have spent a great deal of time and energy trying to answer that question. In fact, we've demonstrated conclusively the overwhelming support of virtually every sector of society! We've produced support from labor, from the religious community, ethnic minorities, womens' groups, educators and students, the rich, poor and working class, political parties of left, right and center, grassroots activist and community groups of all kinds and stripes, the media, rockers and classical music aficionados -- people from every possible background and position in life. This amply demonstrates the fundamental value American society places on freedom of expression and the desire to see opportunities for that expression to be increased. Very few need to have the crucial value of community radio explained to them.

Powerful evidence comes from the F.C.C. itself which reports 13,000 requests for community radio licenses in 1998 alone!

On the other hand, the broadcast lobby has been able to demonstrate opposition to community radio from only the thinnest slice of American society -- that is, the broadcast lobby itself. Has the N.A.B. or N.P.R. produced even a single person not directly connected to broadcasting who opposes community radio? We do not doubt that a few such people exist in a country this size, but it also seems obvious that for every one, there are ten thousand who support community radio.

In fact, many existing broadcasters themselves have come out in favor of community radio! A March

Radio World editorial encouraged the adoption of LPFM; recent industry polls have shown a substantial majority of licensed broadcasters in opposition to recent F.C.C. raids on community stations; several broadcasters have threatened to cancel their membership in the N.A.B. over this matter; and several times we have received (unsolicited) inside information from N.A.B. members sympathetic to our cause. The broadcasters cannot even present a unified front of their own members against community radio!

Those who wish to influence the legislative or regulatory process in this country are obliged to demonstrate public support for their position. One side in this issue has succeeded at that with impressive results; the other has failed beyond any measure. This evidence, more than anything else, absolutely compels the F.C.C. to rule favorably on community radio. How can the agency justify a regulation as being in the public interest when the public is united and ignited against it!?

To put this in even clearer perspective, one must remember that the broadcasters, by means of their effective monopoly over the public airwaves, have an overwhelming advantage in terms of influencing public opinion. Free speech activists are forced to whip up public support via flyers produced at the corner copy shop, while broadcasters are in possession of the (public) resources to spread their anti-community radio message far and wide. Yet they choose to ignore the subject.

In fact, they go farther. We have direct evidence of broadcasters in our state subverting the potential for public debate about community radio by disallowing such conversation as a topic on their talk radio shows. Again, this raises anti-trust concerns, as well as demonstrating a fundamental unfairness, while raising eyebrows about the broadcasters' own commitment to their public-interest obligations. How ironic that we can't even use our own public airwaves to debate who should be allowed to use our public airwaves!

We conclude that the reason the broadcast industry has refused to allow this debate – or even to air their own side of it! -- is because they know full well their positions, points and arguments cannot withstand public scrutiny. We have a hard time imagining them having much success should their DJs begin

making this impassioned plea to their listeners – “Write a letter to your senator today, urging them to defend our right to monopolize the public airwaves!”

As if this weren’t enough – in awe-inspiring paradox, they actually claim to *speak* for the American public they’ve helped to silence! Comments such as CEO Eddie Fritts at the recent N.A.B. convention – demanding the F.C.C. “*First nurture the IBOC rules to ensure the public’s ability to receive the highest quality radio service*” – are common. Never mind that the American public has never heard of IBOC, nor realizes there are at least five other competing technologies for terrestrial digital radio. Pay no attention to that nation behind the curtain, the visage of Eddie the Wizard bellows. He speaks for all of us.

Of course, broadcasters are people too, and we do not devalue their own rights in terms of the public airwaves. But there is no legitimacy in the rights of the one percent always prevailing over the rights of the 99%!

For a particularly illustrative example of what the public really thinks of the corporate domination of our airwaves, we refer to the comments in this proceeding of microKind Radio San Marcos, which among other things calls for;

* “An investigation by the anti-trust division of the U.S. Justice Department to confirm monopoly takeover...”

* “No corporation shall be allowed to own any type of FM license.”

* “Reduce all FM licenses, commercial and non-commercial, to 100 watts.”

* “No station owners outside the community of the station of origin.”

We suspect that the public would find such concepts quite intriguing, if not downright appealing --

should the public ever be given the opportunity to consider them.

Too often, what the public actually wants is never even addressed when communications policy is set in this nation. A perfect example is the 1996 Telecom Act, of which syndicated columnist Molly Ivins recently wrote, *“When you let an industry write the law deregulating itself, which is what Congress let happen in this case, the result is not likely to be a festival for consumers.”*

When does the public ever really participate in F.C.C. rule-making procedures? It is the broadcast industry virtually alone which normally participates. Little wonder then, that Mr. Fritts and the broadcast industry feel safe in defining the “public interest” for us.

This explains the often bizarre conclusions reached by the F.C.C., such as when giving credence to ridiculous industry claims that consolidation and fewer voices does not affect diversity, or that fewer owners actually promotes “competition.” These things are by definition false! But when bureaucrats struggle under the crushing weight of the industry titans it is no wonder their blurred vision often allows them to see neither the obvious nor the public they are supposed to serve. We don’t blame the Commissioners, and in fact think most of them do a wonderful job under extraordinary circumstances. However, we do understand the situation -- and the need to lessen industry influence over the administration of such valuable public property.

Lawrence Soley clarifies the special relationship between the agency and industry in the past;

“First, F.C.C. commissioners usually come from the telecommunications industries – the very industries they are supposed to police. A House subcommittee study of F.C.C. appointees noted that ten of the 19 commissioners appointed during a 16-year period had come from the industry or from law firms representing the industry.”

“Second, commissioners who prove to be loyal supporters of corporate interests are

often rewarded with high-paying industry jobs after leaving the F.C.C. A study of the 33 F.C.C. commissioners who served between 1945 and 1970 found that 21 went on to become lobbyists for, or lawyers representing the telecommunications industry; the other 12 were elderly and retired after their F.C.C. posts. Consumer activists like Ralph Nader refer to this problem, which remains endemic, as 'deferred bribery.'"

The Summary of the NPRM (para. 112) states that the agency hopes "to receive comment from a wide range of existing and potential users of the FM spectrum." In fact, the entire public "uses" the FM spectrum, and we have established that the public has already spoken.

For the F.C.C., community radio is not an option -- it is a duty. Give the public what the public demands.

4. CONSOLIDATION & DIVERSITY

It is not necessary for the Michigan Music Campaign to provide the agency with a detailed analysis of recent consolidation in the broadcast industry. Suffice to say, it is both unprecedented and highly alarming.

But what is even more alarming is that suggestions of eliminating ownership limits altogether are not dismissed out of hand, but are actually given serious consideration! A nation that puts such great value in democracy ought not act so recklessly, because history proves democracy is not necessarily eternal. In fact, a true democracy is more akin to a fragile flower which only survives due to constant care and attention.

It is interesting to hear the broadcast industry, on the one hand, argue for a complete deregulation of the telecommunications industry – at least when it comes to eliminating ownership limits. However, none call for deregulation when it means allowing unlicensed stations to operate in competition with their empires. In other words -- deregulation for them, but not for us!

There is a clear and obvious link between media and democracy. Certainly it has been well established that countries with a broad range of society actively participating in media creation also tend to have much more developed and successful democracies. Countries where media participation is highly restricted also tend to be both considerably more autocratic and authoritarian. In fact, they are also more often likely to be corrupt, threatening to their neighbors, and prone to “renegade-status” in the world view, etc. In general, kings and dictators find it much easier to control a handful of media titans than armies of independent media owners.

Do we really want to emulate the Iraqi or Serbian models, with their monolithic and tightly-controlled media? Or do we follow the spirit and tradition of the independent pamphleteers who inspired the American Revolution?

It is of course impossible to measure the quality of a democracy by purely scientific and objective criteria. Nevertheless, almost everyone would agree on certain standards when it comes to measuring the quality of democracy – free elections, checks and balances, etc. Most people would include, of course, the presence of a free, diverse and independent media on this list.

However, it is considerably more difficult to measure the quality and depth of a society's culture. What possible standards could be agreed upon in terms of culture? We suspect there would be little common ground in this area.

So when we hear comments from Commissioner Powell that the courts will likely require a clear link between diversity of ownership and diversity of programming, we are very concerned because it is as if we are demanded to prove the unprovable, by using terms no one can even define in a fully comprehensive way! It is difficult if not impossible to objectively measure the level of racism in a society, yet we are pretty sure that it exists. It is at least equally as impossible to measure the level of cultural diversity in a broadcast environment. Nevertheless, again we can sense when it is there and when it is not.

Rather than place impossible obstacles of proof in the path of LPFM advocates, why not accept the obvious: that a broad diversity of media owners is far more likely to produce a broader diversity of information and culture than a small number of owners? To argue otherwise is contrary to all common sense and so remotely unlikely to be true that we only waste time considering it. To be sure, there may be examples of when fewer owners did indeed provide greater diversity. But to pretend this would happen a majority of the time is ridiculous.

5. IBOC & TERRESTRIAL DIGITAL BROADCASTING

The misinformation about terrestrial digital radio is scandalous, and deserves scrutiny. We are aware of at least six different competing technologies, including “IBOC” and “Eureka 147.” In the U.S., only one appears to have received any serious consideration at all – IBOC. However, we understand that much of the rest of the planet presently favors or has already installed Eureka. As our nation bravely embarks on “the road much less traveled” into a potentially risky and expensive digital future, probably fewer than one in a thousand Americans can even correctly identify IBOC as a terrestrial digital broadcast system or know what the acronym stands for.

Despite the absence of a formal rule-making, it is hard to believe the agency has not already chosen IBOC as our nation’s terrestrial digital broadcasting standard. References to IBOC litter the LPFM NPRM specifically, and much of the rest of the body of material published by the agency. There has been scant recognition of other competing technologies.

Commissioner Furchtgott-Roth (speaking about LPFM) says the agency;

“...must be careful not to slant our presentation toward one point of view, lest the Commission become an advocate instead of a neutral decision-maker. Of all agencies, the F.C.C. should not be attempting to shape and color public opinion on matters before us by the dissemination of unbalanced information. I believe that, if we are to enjoy the appearance of fairness in the rule-making process, we should not use government funds to promote a particular result prior to even the issuance of an NPRM. Not only does such promotion damage our impartiality, but it puts private interest groups on the other side of the issue in the position of having to expend resources to counter not just the efforts of opposing parties but of the agency as well.”

There is very little else in the Commissioner’s dissenting statement with which we agree, but on these

points he is completely correct. However, these general points are far more accurately applied to the agency's handling of IBOC than LPFM! While an impartial and removed observer would easily be able to detect from agency statements and publications that there exist competing claims and positions in regards to LPFM, that same observer would hardly be able to discern that there are alternatives to IBOC.

It seems hazardous for the F.C.C. to leap into a far-reaching decision about terrestrial digital broadcasting with so little known about the subject even by the experts (as evidenced by the often contradictory conclusions they reach; App. C, para. 4, contradictory conclusions drawn by USADR and the N.A.B.). Even more obvious, however, is that the American public must have the opportunity to express its own thoughts and desires concerning terrestrial digital radio. How can we know what is in the public interest if we don't even bother to ask?! No decisions with such long-term ramifications should be entered into until there has been ample education, debate and polling to determine what an informed American public really wants.

If digital television can be used for comparison, it seems unlikely American consumers are thrilled about the prospect of throwing away their radios and stereo receivers in order to buy expensive new digital versions, anyway. Sales of HDTV digital TV sets amounted to less than five hundredths of one percent of total television sales in the US in 1998, leading Forrester Research to conclude HDTV will be "an expensive flop." As of March 1999, not one of Time Warner's 1.1 million New York cable customers had requested the special decoder box necessary to receive HBO's HDTV signal!

Some competing terrestrial digital systems claim an efficiency capable of squeezing five times as many channels into the same amount of spectrum space. IBOC digital, by contrast, is even less efficient than analog! The question is, would the public prefer 500 channels in the space of 100, or the short-term flexibility of IBOC?

The time to revisit the arcane 200 kHz channel bandwidth standard is long-overdue. Such a standard is based on technology from many decades in our past, it is grossly spectrum-inefficient and dis-allows

many more stations on the dial at a time when there exists incredible demand from the public for new licenses. The F.C.C. should be requiring tighter standards of receiver selectivity from manufacturers and should be moving towards tighter channel bandwidth standards (perhaps 100 kHz channel width), since this would be easily achievable and clearly in the public interest in so many ways. Instead, by “adopting” in prejudice the IBOC standard (which requires the full 200 kHz channel width -- and perhaps even more!), the F.C.C. is moving to lock our nation into a broadcast standard which should have been retired decades ago.

We are informed that “analog FM is more robust at penetrating steel reinforced buildings,” and that the “picket-fencing” associated with analog is nothing compared to the “shelf effect” of terrestrial digital.

We are also concerned about reports that in fact IBOC has not worked very well so far. In fact, trade papers are full of articles outlining the failure of IBOC to work properly.

We are also concerned about predictions that IBOC will require an even more inefficient use of spectrum than presently stated in order to function properly! In other words, some have suggested that the IBOC system has been forced on us based on overly optimistic technical standards regarding efficiency. Once other competing terrestrial digital technologies have been officially removed from consideration, then USADR will report the bad news that IBOC will require even greater spectrum inefficiency!

How gripping the irony that it was arguments about spectrum inefficiency used to do away with Class D licenses 20 years ago. Having served its purpose, LPFM opponents unceremoniously throw “efficiency” out the window by, and now claim IBOC as the new holy grail in the name of which everything else must be sacrificed!

What are the benefits of terrestrial digital? Terrestrial digital provides an improved signal-to-noise ratio. However, since most commercial broadcasts are already extremely compressed, the potential for an expanded dynamic range will never be appreciated or enjoyed. And since most people listen to radio in

their cars, even if a DJ stops talking for a second all you will hear is the car next to you! An expanded signal-to-noise ratio is meaningless unless you are in a setting (such as a concert hall) where one can appreciate a greater dynamic range and where the noise “floor” does not exist far below naturally occurring ambient noise.

Another “benefit” of terrestrial digital of which we have heard will be the ability of broadcasters to flash advertising messages on our new digital radio’s screen. This is truly something we can live without!

The Corporation for Public Broadcasting says their transition to digital television will be substantially compromised without additional federal funding. Will public radio require a similar extra subsidy, and if so wouldn’t it be wiser to gather complete information to avoid making an expensive (tax-payer funded) mistake?

There is also a concern that in the future, IBOC radios used by American citizens will not work anywhere else, nor will other nations’ radios work here! In addition to the inconvenience, American radios could end up costing significantly higher.

We suggest that stations anxious to broadcast digital in the existing FM spectrum do so over their SCA subcarrier audio channel.

We also suggest that whatever form of terrestrial digital is finally implemented that it be done at a much higher frequency, where it is easier to implement digital and where most of the rest of the planet is situating their terrestrial digital broadcast frequencies.

It is interesting that the IBOC system calls for not one but two adjacent digital signals around the existing analog signal. Appendix C, para. 2 refers to “significantly increas(ing)” the digital signals at a future date. With this in mind, one grows highly suspicious that the enormous pressure for IBOC coming from the broadcast lobby (but nowhere else) is partly motivated by a vision of a future “stock-splitting,” so to

speak; eventually having two frequencies where they used to have one. The recent \$70 billion digital TV spectrum giveaway comes to mind in this regard.

It should be noted that the parties advancing IBOC at the expense of LPFM are essentially the same parties which will face new competition from LPFM stations. Little wonder then that they insist IBOC be implemented first, in order to circumvent to as great a degree as possible the creation of competing LPFM stations.

IBOC is being advanced by USADR, a cooperative effort of CBS, Westinghouse and Gannett. When seeking approval, USADR stated about IBOC, *“Since there is no direct overlap of energy between the desired digital signal and second-adjacent signals, the effect of . . . interference is minimal.”* *“Digital reception is essentially not susceptible to third-adjacent channel interference; nor is IBOC likely to increase the potential for causing such interference to analog stations.”* According to the statements of the LPFM opponents themselves, along with points expressed in App. C para.4, community radio as proposed by the F.C.C. appears highly unlikely to pose a problem for IBOC.

However, for the sake of argument, let us assume to be correct the F.C.C.’s concerns about the potential for a mutually exclusive conflict between LPFM and IBOC terrestrial digital, with each side demanding their own project be implemented first. Again, what does the public want? Where are the hundreds of public rallies and demonstrations demanding IBOC? We’ve seen them for LPFM. Where is mass movement of IBOC enthusiasts so obsessed with the technology that mere FCC regulations alone cannot restrain their compulsion to broadcast their amazing new digital signal? We’ve seen it for LPFM. Where are the hundreds of articles in practically every newspaper big and small, noting the huge public outpouring for IBOC? We’ve seen it for LPFM. Where are the tens of thousands of letters written to elected officials demanding IBOC, the city council and state legislature resolutions? We’ve seen them for LPFM.

In fact, as demonstrated, demand for digital broadcasting in general could hardly be less.

If the public interest standard remains the agency's "bedrock principle," then the F.C.C.'s mandate is clear regarding LPFM and IBOC.

6. SPECTRUM AVAILABILITY ANALYSIS

We thank the agency for the intensive spectrum availability analysis described in App. D.

We share the somewhat universal concern of a fairly limited availability for LPFM given the proposed guidelines, but take some heart in the implication in App. D that the analysis was prepared in such a manner to present a conservative estimate of available stations, rather than an “overly optimistic assessment.”

We reject out of hand the suggestion of Commissioner Furchtgott-Roth that LPFM be abandoned because of existing impediments to its full implementation.

We direct the agency to our comments and suggestions in Section 10.a: Estimated Sufficient Minimums and Section 10.c: Emissions & Bandwidth.

We repeat our urgent demand that every possible option be explored in order to create the absolute maximum number of broadcasting opportunities; including but not limited to:

* Narrowed channel bandwidth: We encourage the agency to continue exploring the idea of narrowing the bandwidth allocated per channel -- for all stations, full-power and LPFM. It should be the goal of the agency to minimize the existing bandwidth allocations of all broadcasters in the public interest of satisfying the public demand for new stations. The 200k spacing is based on long obsolete technology. Also, the F.C.C. ought to begin raising receiver standards and mandating better selectivity from manufacturers immediately, so that the impressive benefits of a narrowed bandwidth system can one day be enjoyed. If Americans were told that the technology readily exists to allow 200 channels in the space of 100 (or perhaps even more with a superior terrestrial digital technology), they would demand these changes.

* Expanded spectrum: Referring to para. 15 of the NPRM, we agree that it would be unfortunate for consumers to be required to purchase additional equipment in order to receive LPFM stations. However, this would still be preferable to additional LPFM stations being unavailable at any price.

* Shared licenses: Again, this is not a preferable option but one which can be lived with. And wonderful it will be if the concept of “sharing public resources” actually gained a foothold in policy-making in the world of broadcasting! If there is anything full-power broadcasters need to learn, it is how to share.

* Relaxed geographical spacing requirements, as proposed by the REC Networks.

* A contour-overlap interference protection methodology rather than one based solely on distance separations: This and the item below would seem easiest to implement by way of local volunteer non-governmental broadcast authorities.

* A methodology based on terrain or topography, as advocated by some.

* Relaxed adjacency protections: Covered in detail in Section 10.b *Interference Concerns/Adjacency & Other Restrictions*.

* Allowing community stations to accept but not create interference, etc.: Covered in Section 10.c *Emissions & Bandwidth*.

* Directional antennas and spectrum masks.

* Most important of all is to halt the impending implementation of IBOC terrestrial digital in favor of a system that would take advantage of, rather than waste, digital

technologies' inherent spectrum efficiency.

The potential through LPFM for community building, for civic participation, for cross-cultural understanding and bridge-building, and for a million other things, many impossible to adequately describe through mere words – is simply enormous. LPFM has the potential to alter in a fundamental way the lives of tens of millions of Americans. This potential should be exploited to its fullest. To limit LPFM to a half-dozen stations – or less! – in major metropolitan areas is a monumental error. One can pick only the apples within easy reach – or one can get a ladder and have a whole bushel of apples. The effort we put into maximizing the potential for LPFM will be rewarded many times over. Let ten thousand transmitters bloom!

7. AMNESTY

The Random House Webster's College Dictionary defines "pirate" as, "to plunder," or "rob." While the commercial broadcast industry plunders our communities to the tune of about \$60,000,000,000.00 (billion) dollars every year, it has yet to be established that unlicensed broadcasters across the entire country have collectively profited beyond a few thousand dollars at most! In fact, it is almost certainly a negative number since most unlicensed broadcasters have operated at a loss, with no concern for profit, cash flow, or "the bottom line."

Here in Michigan, we have tried to set an example of how one can work within the system: lobbying Congress, participating in the Comment/Reply-Comment procedure, educating the media, public demonstrations, investigating possible litigation, etc. We also, for the most part, agree on the need for government to regulate the airwaves, although through a fair and open licensing process which currently does not exist.

However -- in very limited circumstances -- we sometimes respect those who feel they must break the law in order to preserve and advance justice. Thus, we support the great majority of micro-power broadcasters who, although unlicensed, have proven embarrassingly more successful at fulfilling the public interest mandate than almost any of their locally licensed counterparts, all while being careful to not interfere with their neighbors on the dial.

This country, after all, was founded in acts of civil disobedience. Civil disobedience has never ceased to play an important role in shaping American justice and society. Practitioners of civil disobedience are among our nation's most revered historical personages. Until our nation's system of justice is perfected and without flaw, we think it is both likely and desirable for civil disobedience to continue where appropriate and necessary.

Of all the values we collectively respect, freedom of expression is perhaps what most characterizes

ourselves as Americans. Driven in this manner, many hundreds if not thousands of community groups have felt compelled to practice civil disobedience by broadcasting without a license in order to challenge regulations which undemocratically reserve the public airwaves for only the wealthiest. Unlicensed broadcasting is a non-violent, passive form of protest. When practiced responsibly, i.e. without causing interference, it is also quintessentially unobtrusive. Not one person has been harmed by the thousands of unlicensed broadcasters of the last decade – save those licensed broadcasters who lost listeners because they did not offer what the public wanted.

Regardless of where one stands on the matter of re-legalizing community radio, it seems appropriate to offer at least some respect for the free-speech activists who've risked so much in the name of civic duty. Rightly or wrongly, they've stepped forward to serve their community and nation. This model, of selfless civic servant working to defend the First Amendment, best describes the overwhelming majority of micro-power broadcasters and their supporters. (Virtually all are also defined by their dedication to non-violence.) Can this same model seriously be used to describe the average commercial, licensed broadcaster? It is quite a parody to suggest that commercial broadcasters typically favor serving the public interest first and that the maximization of their profits come second to them.

Far from a matter of character deficiency, we strongly believe these free-speech crusaders have amply demonstrated a *surplus* of character, courage and civic responsibility! What can most licensed commercial broadcasters point to as evidence of a similar surplus on their own part?

When our Campaign successfully demonstrated an overwhelming desire for Detroit music on Detroit radio, the commercial broadcasters reacted not out of respect for our concerns -- but with hostility and intransigence! They attacked us on the air, lied about us in private and fomented rumors against us. Rather than respond to their listening audience, they acted consistently as if we were their enemy, moving to silence, divide, and ridicule us. In fact there is some evidence which suggests they acted to blacklist certain bands who dared to beg them for more local airplay!

Who was it who responded to the consistent and clear demands of our community? It was Ron Gutzeit of *Free Living Radio*, who risked fines, forfeiture and loss of freedom -- with no hope or intention of pecuniary gain -- just so that the public interest would be served! *That* is how we define “character.”

Gutzeit played exclusively local music when even the best Detroit stations gave it only about .25% (one quarter of one percent!) of their airtime. Gutzeit was stopped cold when his equipment was finally seized in February 1999. The complainant in the case was Gregory Jablonski of WHMI 93.5 FM. Gutzeit had been operating a 40-watt transmitter at 89.7 FM -- a full 19 channels away! Obviously interference was not a concern, especially with Gutzeit’s rock-solid transmitter. In fact, Gutzeit represented some of the only competition to WHMI, and we think it is obvious that it was fear of competition driving this complaint -- and the silencing of the only station in the area truly serving our needs.

So we understand and sympathize with those who consider Jablonski’s actions in this matter to be nothing short of despicable. Jablonski, and others, have subverted the public interest simply for personal gain. We believe this is one very good way to identify a “*character deficiency*,” and certainly far better than the F.C.C.’s current standards.

But if we are to have “*character standards*,” by all means, let us make full use of them, including applying them to every member of Congress and the F.C.C. Commissioners themselves.

Interference from existing community stations has been grossly over-stated. It is simple logic that if one is operating a 50-watt station, it is a good idea to use a different frequency than the 50,000 watt station down the block! In fact, according to journalists Bilotta-Dailey and Siska, the F.A.A. has records of several cases of interference by large, licensed stations. For example, “Two reports on North Perry Airport in Florida indicate that they have changed their frequencies several times to accommodate interference from commercial stations. In 1990, there was a fatal mid-air collision at this airport. One FAA report indicates that...one of the pilots may have been flying in a so-called ‘radio blackout’ area said to be caused by an antenna farm two miles away.”

The N.A.B. says, “The F.C.C. should not . . . legitimize the pirate broadcasters...” They want you to punish not only the free speech crusaders, but also the 95% of those who requested licenses but never broadcasted illegally! Of course, by this logic, black people should still be riding in the back of the bus -- lest we reward Rosa Parks for her civil disobedience! By this logic, a king should never establish relations with a new nation lest he reward those who threw overboard boxes of tea.

Allowing amnesty for unlicensed broadcasters is the only way to bring them under regulatory control and scrutiny.

To disallow licenses to the very parties who laid the groundwork for MM Docket 99-25 and provoked this critical debate over whether the public should be able to use the public airwaves would be like giving the vote to women – but not the suffragettes who broke the law in order to win that right!

The *Michigan Music Campaign* supports full amnesty for past, present and future unlicensed broadcasters who agree to participate in a licensed, regulated environment. And, based on their prior demonstration of a character surplus and pre-existing service to their community, we support a license allocation preference to parties which operated unlicensed community stations over the past decade, provided those stations were operated in a manner consistent with the public interest, i.e. no interference with other stations, etc. We also agree with those who demand that the F.C.C. immediately return any confiscated equipment or provide adequate compensation for such equipment.

We also support the F.C.C.’s efforts, upon the establishment of a fair and sufficient LPFM service, to maintain order on the airwaves by acting to remove remaining unlicensed broadcasters.

At the same time, and in awareness of the apparent contradiction – we believe something truly great, fiercely independent and honorable about America will die when the last “pirate” is finally silenced.

Thus, we hope there will always be a least a few voices operating outside of the system, and that the

F.C.C. raids we grudgingly accept as necessary will never be completely successful.

Actually, this is probably no less contradictory than the F.C.C. raiding LPFM stations while simultaneously moving to legalize them. Another analogy is the separation of powers foundation on which our government is structured. Checks and balances make sense in a multi-dimensional reality. We want the F.C.C. to be in control -- but not too much in control. We believe the F.C.C. to be essentially benign, at least compared to similar agencies in other parts of the world -- however we also recognize the potential for that to change. And we also recognize that to the extent the agency is not benign today, it is because of the inappropriate and dominating influence of the broadcast industry, which subverts the public interest by using the F.C.C. as its censoring arm.

In summary, let us remember that with every raid on an unlicensed community radio station, an American voice is silenced.

8. THE PETITIONS

8.a RM-9242/THE SKINNER PETITION

We agree with the F.C.C.'s determination that 3,000 watts are too much for community radio.

In fact, we support the F.C.C.'s plan for LP-1000 stations only in rural areas. Such stations in a metropolitan area would preclude many smaller community stations from being licensed. Further, such stations in a metropolitan area could easily reach tens, if not hundreds, of thousands of people, and are thus likely to attract the same enormous commercial interests that have so dominated the full-power stations.

We see some merit in a "special event" service in Detroit, which would allow for special broadcasting associated with area festivals and events, such as the annual *Woodward Dream Cruise* and other festivals. However, such a service is not a primary concern of ours.

We disagree with Skinner's second tier being given secondary status, for fear of our community stations being bumped by full-power stations seeking to expand or move.

We sympathize with Skinner's model of LPFM as an avenue for small or family-owned businesses, and see a great need and demand for such opportunities in Detroit. As well, small, localized businesses, such as coffeehouses, need affordable, efficient and effective opportunities to advertise. Why should a laundromat or local grocer advertise on a Class C station, and pay expensive rates to reach listeners who will never patronize their business?

We agree that LPFM stations should be required to present a "*schedule of minimum hours of operation per week.*" With so few licenses to become available in Detroit, we cannot afford for any of the new stations to sit idle, especially when there will be such a tremendous demand for these licenses.

8.b RM-9208/THE LEGGETT PETITION

We reject with extreme prejudice Leggett's original plan to confine community radio to one-watt stations on a single channel. Such a plan would be an unconscionable insult to the American community.

However, we find Leggett's amended plan – with two tiers, reaching one and five miles respectively -- to be an enormous improvement.

We agree that ownership of these stations should be limited to individuals whose primary residence is within 25 miles of the station, and very small businesses/non-profits with primary headquarters in the same area. We feel strongly that LPFM licenses should be strictly limited to one per owner.

8.c COMMENTS

In addition to the issues expressed in para. 8, we must also add:

* A concern for fundamental fairness in the allocation of public resources. (Sec. 8d, *Need For Low Power Service*; Sec. 10b *Interference Concerns/Adjacency & Other Restrictions*; Sec. 11 *Alternative Proposals*)

* The threat to democracy as a result of both consolidation and an ever-rising economic threshold barring access to the airwaves. (Sec. 4 *Consolidation & Diversity*)

* Concerns about cultural homogenization. (Sec. 4 *Consolidation & Diversity*)

* Local economic effects, not only for local advertisers but also for entire local music economies. (Sec. 2 *Introduction*)