

We favor residency requirements, and are in doubt of the agency's "*long recognition*" that residency does not affect "*local needs and interests.*" However, we also understand the difficulties inherent in monitoring such a requirement. Enforcement does not seem to be a problem, though – simply revoke the licenses of those who don't follow your rules! In any case, by the F.C.C.'s own estimation, demand for LPFM licenses would seem to preclude the agency's concerns about "*inefficiency*" as a reason not to adopt residency requirements.

We would support owner/management integration as referred to in para. 62. if it is possible.

Inasmuch as we strongly favor local residency requirements, we would also oppose alien ownership of LPFM stations.

We sympathize with those non-commercial broadcasters who are concerned about the predatory practices of certain religious broadcasting networks seemingly intent on grabbing as much as possible of the available spectrum for themselves.

We also express concern that should a strictly non-commercial LPFM service be adopted, it not be limited exclusively to non-profit corporations, but also to non-profit unincorporated associations.

We address "*character qualifications and unauthorized broadcasters*" in Section 7 *Amnesty* above. We repeat our most urgent demand that the unlicensed broadcasters responsible for initiating this historic and wonderfully democratic proposal to re-legalize community radio be given their place at the table, and be allowed – at the very least – equal consideration when it comes to allocating licenses. Far from a character deficiency, they have demonstrated a surplus of character.

10.e SERVICE CHARACTERISTICS

10.e.i Local Programming

Local content and programming is at the heart of our concerns about radio. For the *Michigan Music Campaign*, a new service of small stations which simply duplicated, or actually rebroadcast the same material as one finds on the full power stations, would defeat the whole purpose! In fact, it's hard to imagine how any other parties in the Metro Detroit area would be served by such a situation.

We would like to stress the difference between local content and local programming, although we find both to be highly desirable. For us, there is nothing to be gained with local programming if the locally-based DJ is simply playing the same music of the superstars heard on the full power stations. And we want low power stations that will play locally-created music! We understand that local content regulations are not being proposed, and that such regulations would involve some very difficult Constitutional issues in any case. However, we feel it is important to enter into the record an accurate understanding of our position.

On the other hand, we find it difficult to see how the agency could enforce and monitor a local programming requirement. At best, we would suggest a self-policing system of mandatory filing of broadcast logs. Also, local volunteer non-governmental broadcasting authorities could be empowered to perform spot-checks. Finally, performance could be measured by the presence or lack of filed complaints. In any case, we suspect that most of what we desire from LPFM will be satisfied naturally and without the need for burdensome regulations.

10.e.ii Commercial Programming

We find it difficult to come to a consensus on the matter of whether LPFM should be strictly non-commercial, or whether commercial stations should also be allowed. The comments contained in this section are at least slightly contradictory, reflecting the lack of a complete agreement on the fine points we discuss.

We appreciate the reminder by the Prometheus Project, however, that commercial free speech is considered secondary to civic free speech in this country.

In general, we are in agreement that the fundamental question is one of magnitude; that is, big-versus-small. The primary goal of LPFM must be to lower the broadcasting threshold so a broader range of Americans can participate. This is an important part of why we insist that LPFM licenses be limited to one-per-owner.

In the specific case of the *Michigan Music Campaign*, what little relief we've found in terms of gaining airplay for locally-created music has almost always come from small stations: unlicensed stations, college and high school, and the smallest of commercial stations.

Certainly there are many problems with the state of non-commercial broadcasting in this country. For one, the influence of under-writing continues to grow more serious with one result it being more and more difficult to discern the difference between so-called "public" and "for-profit" broadcasting. Jests such as "Corporation for Petroleum Broadcasting" carry an ironic ring of truth. Also, as public broadcasting has become increasingly institutionalized, it has also become more top-heavy, top-down, and top-detached from the local community. Our experience with general managers and program directors at local stations left us with a perception that undemocratic attitudes reign supreme at the top of both public and for-profit stations. The current battle over control of the Pacifica Foundation, Inc. is also worth considering in this regard.

Of course, the influence and potential for influence of advertising dollars over programming is a great concern regarding commercial broadcasters too, especially in terms of how it affects news coverage.

And, in terms of commercial stations, it is impossible to fail to recognize how market forces have created so many of the things we dislike and find intolerable about radio. It is the paralyzing fear of a slip in ratings that:

** Drives program directors in the race to the bottom to broadcast ever-lower toilet humor from publicity-hungry and aggressively obnoxious DJs;*

** Renders them incapable of airing music that hasn't already been heard a thousand times before by artists everyone has grown tired of decades ago;*

** Blinds them to music created within their own broadcast range; makes them susceptible to payola and other forms of inappropriate influence;*

** Drives from their mind any concern over the public interest, etc.*

For the listener, there is the occasionally clever and cute commercial – but more typically to be subjected to endless repetitions of the same corporate jingles surpasses the tortuous! For LPFM to emulate any of this is a rather disheartening prospect.

We agree with the Amherst Alliance's assertion that commercials on LPFM stations would probably, as a result of competition, lead to lower advertising rates on full power stations in the area. In a broader sense, we agree that a new avenue for local advertising through LPFM would probably lead through enhanced competition to lower prices on retail goods and services in our area.

We also recognize and appreciate the claims made by many would-be broadcasters in our area who feel

that the ability to air commercials would be an essential factor in the successful operation of their stations.

It is clear to us that many would-be LPFM broadcasters in our area would like to operate their station as a small business. They want to dedicate themselves to broadcasting, not as a hobby and not always as a mere occupation – for some it would be nothing less than a lifestyle! We must find a way to make that happen, while at the same time allowing them to generate a sufficient income for living expenses and raising a family.

Some have suggested it would be possible for these parties to operate as “*not-for-profit*” entities, while still drawing a salary. As non-commercial stations, they would be unable to air actual commercials and would be limited to under-writing and other forms of fund-raising. Our would-be broadcaster friends are not interested in issuing stocks or dividends, or other speculative matters. They simply want to broadcast for a living. If this is true, we might be willing to accept strictly non-commercial status for LPFM stations. However, the model as described above, must fit in with whatever non-commercial regulations the F.C.C. deems necessary to apply. These stations do not need to be operated in the benefit of stockholders -- and in fact should not be operated for such purposes. But some operators should be allowed to generate sustenance income from LPFM.

We do not see significant difference between whether LPFM stations conduct fund-raising through commercials, underwriting, audience donations, bake sales, etc. In fact, we would tend to prefer a flexible approach which would allow station owners a range of options so that they may find what works best for them. We feel that the potential for corruption through commercialism at LPFM stations is insignificant when compared to full power stations. And we agree with the Amherst Alliance’s conclusion that relying on grants from foundations is not necessarily likely to produce a greater level of station independence and objectivity than relying on advertising dollars. We agree with the Amherst Alliances’ assertion that the F.C.C. should limit the degree to which any LPFM station may rely upon any single institution for loans, grants, advertising revenue or other forms of cash flow.

We would be willing to accept the C.D.C.'s recommendations that if advertising is allowed, it "should be run-of-schedule, not program specific, and be subjected to time limits." We also accept the C.D.C.'s recommendation that local businesses which intend to use their station primarily to promote their own non-broadcasting commercial enterprise, be disallowed access to LPFM licenses.

The other broad group whose interests must be considered is that of the small advertiser. One serious problem affecting Metro Detroit in regards to existing commercial full-power stations is the fact that the cost of advertising has grown out of reach of many if not most small businesses. Further, so-called "must-buy" contracts, where advertisers are required to buy space on several collectively-owned stations in order to advertise on any, only make the situation worse. Finally, the broadcast range of most full-power stations is simply too large to be efficient for small advertisers – who is going to drive 15-50 miles to go to a laundromat or a coffeehouse?

Also, many local businesses tell us that they don't want their options limited to simple underwriting – they want to be able to say how much a pound of ground beef costs today.

We are reminded that just as "not-for-profit" or "public" broadcasters are not always perfect, the small-business entrepreneurs who might operate or advertise on LPFM stations should neither be granted automatic sainthood simply on the basis of their being small. Of course, there are few guarantees in life about anything. But, granting for the sake of argument that small business owners could be as susceptible to corruption and misdeed as the large versions, we think the point remains that small businesses offer many unique benefits. Small businesses are by nature usually more responsive, more adept at filling niche needs, more in touch with local communities. And it should be obvious to all that small businesses have been largely squeezed out of the broadcast industry, with the result that our communities fail to enjoy completely those kind of benefits described. For this reason, we look hopefully to LPFM to help small business owners – as station owners or advertisers -- to provide the unique benefits they offer to our communities..

10.e.iii Public Interest Programming/Operating Hours/Etc.

We agree with the agency's assertion that all primary-status stations should comply with existing public interest programming requirements (Part 73). As we favor primary status for LP-100 as well as LP-1000, we would extend the agency's proposal to apply these requirements to both tiers of LPFM. We agree with the agency in terms of these requirements being overly burdensome for microradio stations.

We agree with the F.C.C.'s assertions in para. 73 regarding *Other Service Rules*, except that, again, if LP-100 stations are granted primary-status as we strongly request they should also be subject to the bulk of Part 73 rules.

Regarding para. 76, it would be a shame if even one of the precious few LPFM licenses to be allocated in the Metro Detroit area were not used in a meaningful way. Therefore, we strongly support a minimum number of broadcast hours per week, along with the "two-thirds" rule. The minimum number of hours-per-week should be as high as possible, perhaps 120 or more. If there are competing applications for a frequency, a higher number of proposed operating hours would be one valuable criteria to consider in determining preference. We feel (para. 77) that these minimum hours should apply to all stations, LP-1000, LP-10, and microradio, in light of the fierce competition expected for these licenses in our area. Again, the simplest way to administer such a system would be through the mandatory filing of broadcast logs, indicating hours on the air and explanations for any situation which made it impossible for the station to maintain its minimum broadcast schedule. Local volunteer non-governmental broadcast authorities could serve as secondary watchdogs.

Licenses should be easily affordable, and non-commercial licenses should continue to be free. Renewal of LPFM stations should first be based on lack of competition for the license, at least for micro-radio and LP-100, where the initial cost of such stations would be relatively low, pro-rated over the length of the license. On the other hand, we understand that this approach will be more difficult for LP-1000 stations.

A four or five year term of license seems appropriate. Para. 83 is correct in urging finite, non-renewable licenses for micro-power and LP-100 wherever there is competition for space on the dial. Disruption of service to the public could be easily minimized by a coordinated transitional broadcasting schedule worked out between the two stations. Similar solutions could be applied to assist the retiring station in an orderly closing of business.

In regards to para. 84-85, the statutory demands made by Congress in the past could hardly be held applicable to an entirely new type of service, with unique ramifications Congress certainly could not have considered or predicted. Section 309 was written in mind of stations that today demand an investment in the millions of dollars, while LPFM stations will typically require an investment in the thousands of dollars.

Financial stability regulations for full power stations should not apply to LPFM.

Ultimately however, these dilemmas and so many others all point to the obvious and urgent demand on the agency to create many more opportunities. All avenues in this regard must be exhausted (see Section 6 *Spectrum Availability Analysis*)

We agree that construction permits should be as short as possible and should under no circumstance be transferable. The problem of speculative applications and trafficking in such permits has been nothing short of excruciating for many of those seeking licenses in the past, and indeed this serious problem is behind much of the driving force of the movement to re-legalize community radio. We feel that 18-month construction limits for LP-100 and 12-months for micro-radio are probably too long. Because of the nature of the service, we question how many of those operating these stations will feel the need to actually build a studio on vacant land. More likely, these stations will be housed in pre-existing community centers, houses, apartment buildings, rented offices and warehouses, etc. In fact, this seems rather obvious in terms of micro-radio. Nor will antenna construction be nearly as involved as for larger stations. Therefore, we prefer a limit of 12-months for LP-100 and six months for micro-radio. We agree

with a relatively strict enforcement of construction permit deadlines, such as described in para. 81.

Regarding para. 86, a one-to-an-owner license allocation plan would be the best, fairest and simplest way to eliminate speculative applications and the marketing of construction permits.

All LP-100 and LP-1000 stations should be required to participate in the Emergency Alert System, with an exception made for micro-radio stations. Hopefully some form of financial assistance can be provided to make it easier for LP-100 and LP-1000 stations to participate in the EAS. Avenues should also be explored to make it easier for micro-radio stations to participate.

We fail to see any way our local population would benefit by having an LPFM station's status identified through its call sign.

We agree with the station inspection rules described in para. 89 for LP-100 and LP-1000 stations. However, we feel strongly that micro-radio stations should be granted an exception. First, many of these stations will be based in people's homes -- it will not make much sense to buy property and build a station for a five-watt station which will lose its license to a competitor in four years. Few, if any, of these stations will be operated as businesses. They (unlicensed versions) have historically served in severely economic depressed areas by giving the underclass a vital and urgent means of communication on the most controversial of matters, such as police abuse and brutality. Under such conditions, such an open-ended inspection policy is overly intrusive and should be abandoned in favor of scheduled inspections. A station's signal can be monitored outside of a locked door, after all, and that is sufficient for stations of this size. As well, their public file can be posted on the Internet.

10.f LICENSE APPLICATION PROCEDURE

A system of mandatory electronic filing of license applications will clearly be obstructive to some, and especially some of those who have the greatest need for LPFM. However, we suspect the F.C.C. is correct in anticipating hundreds or thousands of applications. Indeed, the experience of LPTV and also the number of requests for LPFM licenses in 1998 alone suggest there may be hundreds of thousands of applications! Under these circumstances, it seems obvious that an electronic filing system has, by far, the greatest capacity to be fair to the greatest number of people. As well, we put great value in the benefits described by such a system in para. 95; of eliminating the need for an engineer, assisting in determination of HAAT, etc. Anything that will make it cheaper and easier for average, typical Americans to participate in broadcasting should be pursued.

We find it difficult to reach a conclusion as to what is fairest, regarding windows vs. "*first-come-first-served*" (para 96-102. However, experience has shown the need to reduce the number of competing applications. Perhaps there should be an initial short window period upon the introduction of LPFM, followed by a "first-come-first-served" policy in the future. Again, the first and best solution is to expand the number of potential licenses by whatever means necessary.

In any case, we completely reject the use of auctions to settle mutually exclusive applications. We agree with the Amherst Alliance's assertion that auctions are probably in violation of the 14th Amendment. The way these LPFM stations, unlike their full-power relatives, are dispersed should not be decided on the basis of who has the most money. At the very least, should auctions be imposed, they should be weighted based on priorities such as those described below.

The potential conflicts described in paragraphs through 108 could often and best be resolved, perhaps, by way of local volunteer non-governmental broadcast authorities run by local radio enthusiasts, with the

F.C.C. acting as forum of last resort to resolve any remaining conflicts.

Competing applications (para. 103, 106, 108) should be compared on the basis of a number of purely objective public-interest criteria: maximum operating hours, non-commercial over commercial status, a preference for local programming, a preference for under-served formats or type of stations, a preference for stations providing public-access programming, etc. Another possibility would be for stations to demonstrate a preponderance of community support and demand by way of petition, etc. Finally, some form of lottery could be used to resolve any remaining conflicts.

We oppose the “letter-perfect” standard for resolving conflicts as being irrelevant.

Again (para. 104-105), the intent of Congress as to the regulation of an entirely new radio service with entirely unique circumstances cannot be derived from what are, by telecommunications standards, ancient statutory principles. Congress must address LPFM before one can draw conclusions as to what Congress intends. In fact, by way of providing exceptions for “*certain public safety noncommercial services and for certain digital television services and noncommercial educational or public broadcast stations,*” if anything, Congress has made it clear that auctions are simply not appropriate in every situation. Thus, it seems obvious that no conclusive determination can be reached on the matter of the intent of Congress regarding auctions for LPFM.

11. ALTERNATIVE PROPOSALS

We believe there would be significant interest in a so-called “Event Service” in Detroit, and that the agency should consider this possibility.

We support the creation of local volunteer non-governmental broadcasting authorities, or Local Self-regulatory Organizations (LSRO) as they are referred to by the C.D.C. In general, we support the C.D.C.’s proposed framework for such bodies. However, we share the Amherst Alliance’s concerns about these bodies, and would suggest the exploration of means to ensure such bodies do not become ideologically-motivated or prejudiced towards certain styles and modes of operation. It is crucial that these bodies serve only as a primary forum for dispute resolution, and that dissatisfied parties always have the final option of taking their concerns to the F.C.C. itself where there is at least some guarantee of democratic accountability. We also agree with the Amherst Alliance that participation in such LSROs be voluntary and that parties are neither punished for choosing not to participate, or rewarded for their compliance.

We applaud the efforts of the Amherst Alliance in stretching the technological envelope by way of their research into “light wave” or infrared broadcasting and express amazement at this example of unquenchable human imagination and resourcefulness!

We support the microKind Radio San Marcos proposal of the creation of local community access stations for parties which would like to broadcast but are unable to start their own stations.

We are impressed with the Amherst Alliance’s proposal for Broadcast Coverage Areas to increase in size as population density decreases, and their justification for such a proposal.

We support a low-power AM service for areas where no LPFM channels are available.

If there is one thing that every party in this procedure agrees on, it is that, given the current regulatory scheme, there is very little spectrum space available in many major markets. We examine some possible ways to increase that space and use it more efficiently in Sec. 6: *Spectrum Availability Analysis* above. We would like to enter into the record some other ideas for creating room for community radio. We hope these ideas are welcomed and considered not only at the F.C.C. but by our elected officials in Congress.

We suggest making “*renewal expectancy*” for all licenses, full-power and LPFM, applicable only when there is no competition for the license. We suggest instead the “*library*” model; where a party “checks out” a license just like a book – but they are not allowed to keep that piece of public property in perpetuity, forever disallowing its use by any other purportedly “*equal*” members of society. It is jarring enough to find that our rights are meaningful only until they come into conflict with the rights of the wealthy. How explosive then, it is to learn that this inequity is preserved until the end of time! Para. 21 and others make it clear that our right to a share of the dial is secondary “*with respect not only to existing, but also to future full-service radio facilities.*” There is no point in waiting for our fair turn -- because it is never coming!

While some parties have enjoyed an exclusive privilege of operating enormous full-power stations for many decades, others who would also like to use those spots on the dial have been and remain completely denied. Why not confiscate the licenses of some existing stations in order to correct this grievous injustice? We wonder how many LPFM stations we could fit in our area given the elimination of a few existing full-power stations.

We support or are intrigued by alternatives suggested by microKind Radio San Marcos, including;

“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.”

In every other model of public property which comes to mind, one finds examples of authorities working to make it easier for people to use that property (librarians, life-guards, police, city councils). Radio, where the F.C.C.’s function over the last 70 years has been in effect to keep almost everyone *off* the air, is a rare example of the opposite.

* Imagine if our public beaches were operated in such a manner that only the rich and famous could use them, that the sand they select for their towel is reserved for them alone until the end of time, and that they could keep everyone else off the public beach merely by complaining about potential “interference” from people kicking sand on their towel.

* Imagine if our public highways were reserved only for those who drive Cadillacs, and that individuals held permanent domain over their own private lanes. Imagine if the role of traffic cop was not to keep everyone driving at a safe speed – but to keep most of us off the roads entirely!

* Imagine if public sidewalks, public parks, etc., were regulated in a way, as are our public airwaves, that allowed sole access to a tiny minority!

The result of this desperately dangerous state of affairs is that if one should ask the average American, “*Who owns the airwaves?*” that question would probably be answered with a dull stare. (Detroit may be the exception to that rule following our efforts of the past few years, but this was certainly the typical reaction we encountered when we started.) In fact, you will find many convinced in their heart – and ready to debate – that the airwaves are *not* public property! Well, why shouldn’t they think that? There is

very little “*public*” in the public airwaves today!

Commissioner Furchtgott-Roth suggests, as have others, a number of alternatives to LPFM to support his claim that LPFM is unnecessary. This is nothing but a different version of the “*separate-but-equal*” argument that black children can be required to attend separate public schools so long as the schools represent a viable opportunity for their education. In this case, the Commissioner argues that “*community participation*” can be achieved through public-access cable, the Internet, e-mail, etc., and thus the agency can justify barring the public from the public airwaves.

Of course, by this logic, the Supreme Court also ought to be able to ban the publication of independent books and magazines – after all, people are able to express themselves on a milk crate in a public park, so why do they need to write, publish and read too? The Supreme Court, not too surprisingly, has tended towards the opposite approach -- that the government must present a powerful interest when acting in prior restraint of communication and expression.

However, for the sake of argument, we would like to examine the list of options the Commissioner (apparently in sincerity!) offers us:

* “*Extant commercial or noncommercial licenses*” are either not available in our area or are entirely unaffordable.

* “*Purchase of air time on broadcast properties*” limits our only option to purchasing what we otherwise ought to be able to share. How odd a concept it is to “*purchase*” from a private party the use of space on the airwaves that already belong to us!

* “*PEG cable schemes*” are largely being abandoned by the cable giants as a result of deregulation and the emergence of cable “*competition*.” And even before, by the nature of the public access programs, it was financially unfeasible for producers to promote

their shows in any meaningful way in order to build audiences.

* *“Amateur radio”* is the equivalent of standing on a milk crate, but in an alley rather than the public park.

* *“E-Mail”* is not much good for music, is it?

* *“Internet home pages”* require a home, electricity, a computer, a phone line, software, considerable training, a modem, monthly charges, not to mention a fair amount of free time. People can enjoy the radio virtually anywhere without any of those things. On the other side, Internet broadcasting is extraordinarily expensive, with a setup capable of handling a few hundred simultaneous listeners easily costing \$25,000 dollars. In comparison, a five-watt micro-power station which costs \$300 might be able to reach ten thousand listeners.

* *“Bulletins and flyers, and even plain old-fashioned speech.”* When bulletins, flyers and *“plain old-fashioned speech”* are good enough for Westinghouse, they will be good enough for the rest of us mere citizens too. Until the broadcasters are willing to invest as much confidence in these alternatives -- by actually surrendering their licenses in order to devote themselves exclusively to bulletins and flyers – as does the Commissioner, then we are unwilling to surrender without a fight any opportunities for expression. We are still waiting to hear one good reason why we should even consider abdicating one right simply because we also happen to hold another.

To the extent that the Internet is truly democratic – we are delighted. Let that aspect of the Internet serve not as a replacement but as a model for LPFM.

In this way, the intrinsic advantages and benefits (not ignoring their obvious limitations) of each of the

modes of communication offered by the Commissioner should serve as inspiration towards creating the best possible LPFM service. For example, one benefit of simple flyers is that copy machines are relatively accessible and easy to operate. So we should design an LPFM service with those goals in mind! What is it that we like about cable public access? Let's use that for LPFM! This is a much more appropriate perspective for a public-interest-minded F.C.C.

However, to actually try to use other forms of communication as a basis for denying LPFM is alarmingly wrong-headed, and directs the agency along the negative path of a creating policy based on limiting, rather than fostering, communication. It seems apparent that any kind of communications commission instituted by a democratic society ought to be involved in furthering communication, and not playing various forms of media against each other in the effort to circumscribe it. The Commissioner's perspective is ominous in light of cherished democratic principles, and needs to be confronted as such.

12. COMMISSIONERS' COMMENTS

12.a WILLIAM KENNARD/GLORIA TRISTANI

There are some in this country who have enjoyed and profited from an exclusive privilege for so long they have become entirely blind to the rights of others. In fact, the rights of this select group have become so effectively sacrosanct in this country that conventional wisdom holds it to be futile to intercede against them on any issue. Further, the suggestion that they might consider learning to share that privilege with others is generally considered "*radical,*" and "*utopian.*" This is an alarming state of affairs!

It is in this environment that we are so gratefully heartened by statements like (Chairman Kennard), that "*We cannot deny opportunities to those who want to use the airwaves to speak to their communities simply because it might be inconvenient for those who already have these opportunities.*"

We are sorry that our rights are "*inconvenient.*" But they are our rights nonetheless. And for them to be wholly denied is quite a serious matter. Our social fabric is put under great stress when the rights of any of us are unfairly denied.

Really, the abuse and invective showered on the Chairman over this issue is quite instructive, and illustrates clearly how far afield of the public interest the broadcast industry has sadly traversed.

The statement refers to the F.C.C.'s role as "*guardian*" of the spectrum. We fully support the F.C.C. acting in the model of a life-guard, whose job is to keep people from going off the deep end.

Unfortunately, historically the F.C.C. has acted more like a security guard, whose job it is to keep people *off* the public airwaves altogether.

And the sentiment that "*we will do our part to make sure that local radio is not left on the sidelines of the digital revolution*" is a little vague, especially considered against other public statements reflecting a

perhaps firmer commitment to IBOC coming from the Chairman. We ask the Chairman instead for *assurance* that he will not allow LPFM to be “*left on the sidelines.*”

As we’ve gone from elected official to reporter to citizen, we’ve often repeated another vital quote from the Chairman,

“Radio has become the province of multi-billion dollar corporations . . . the loss of small religious stations and local programming is very unfortunate. . . .In a society where most people get all their news and information from the broadcast industry, how can we have a strong democracy when the media is concentrated in the hands of a few people? . . . These issues cannot come down to a battle between the rich and the very wealthy, as do so many of the battles we have in Washington. These issues are fundamental to our democracy.”

We believe Commissioners Kennard and Tristani have a clear understanding of the problem at hand. And we are in substantial agreement over the best ways to solve this problem. We thank them for this historic step in advancing American democracy.

12.b SUSAN NESS/MICHAEL K. POWELL

Commissioners Ness and Powell express concern regarding interference and IBOC and, as we have made abundantly clear, these concerns are misplaced. The public demands LPFM -- not digital -- and even when it comes to terrestrial digital the public has expressed no interest in IBOC. The priority is clear, in terms of fulfilling the public interest. And no serious voice predicts significant interference from MM Docket 99-25. Our opponents cannot expect their interference demands to be taken in earnest when they don't even favor them for their own short-spaced translators! The consortium which is developing IBOC has stated it will not present interference that would affect LPFM.

In fact, as our opponents themselves have expressed, they are really worried that "*Increased competition could over-saturate the market. Profits could deteriorate.*" In essence, they admit by opposing LPFM they are conspiring in restraint of trade.

We find Commissioner Ness' experience of "*the diversity of voices, which has so enriched the airwaves over the years*" to be considerably different than our own. In fact, it is creeping homogenization which is making the radio experience so increasingly unrewarding.

We appreciate the votes of Commissioners Ness and Powell in favor of releasing this NPRM. And we appreciate their support of the concept of community radio. But even Commissioner Furchtgott-Roth supports the "concept." Even Eddie Fritts supports the concept. But the concept is meaningless without implementation. For that to happen, choices must be made -- choices which will inevitably make someone unhappy.

We put it to Commissioners Ness and Powell to fulfill their duty by putting the public first. And the public has spoken loudly, clearly and consistently in favor of community radio. The demands of the corporate broadcasters, the one percent, must not be allowed to prevail over the rights of the 99%.

12.c HAROLD W. FURCHTGOTT-ROTH

There is very little in the statement of Commissioner Furchtgott-Roth with which we agree, and much of our disagreement is vehement. And there is simply far too much at stake to politely ignore the particularly offensive nature of some of his points and insulting language he uses. They must be addressed – with civility – but directly.

Even six sentences in he contradicts himself, and exposes his apparent insincerity. He first says, “*Whatever new service can be provided...would be something worth considering,*” then only a few words later “*...would hardly warrant the effort.*” Frankly, we had hoped the consideration would have lasted a bit longer!

Well, if it was Mr. Furchtgott-Roth’s rights at stake and not ours, perhaps he would not be so quick to dismiss them as “*hardly warrant(ing) the effort.*” But since we are the ones who will suffer should this rule-making be defeated, allow us to repeat that should Metro Detroit gain even a single community radio station from this effort, it will be a very important step in the right direction, and one well worth fighting for.

Where we agree at all with Mr. Furchtgott-Roth, it is that the NPRM does not go nearly far enough to provide for the number of community stations an area like Metro Detroit really ought to have. But if he is serious about providing “*new service,*” why does he use this as an excuse to dump community radio altogether, instead of helping us look for ways to expand the opportunities? It is for these reasons we find the Commissioner’s statement disingenuous.

Mr. Furchtgott-Roth seeks to protect the third- and second-channel protections even the broadcast industry fails to find important (at least when it comes to their translators). He senses a “*severe incursion on the rights of current license-holders,*” yet completely fails to recognize that the rights of other parties have been entirely denied! Clearly for the Commissioner this is not about interference, but protecting

monopolies. In the Commissioner's world, we are the equivalent of peasants, committing a "*severe incursion*" by poaching in the King's forest. The language of "*incursion*" certainly does not suggest a public-minded attitude towards the stewardship of the public airwaves. In fact, it sounds much more like the language used with private property.

As well, in the Commissioner's world, the market "*value*" of licenses outweighs any possible value they might have for the community. All that matters in this view is how much money can be made from these licenses – and not just for anyone, but only for members of a very private club.

The Commissioner may be correct that some junk receivers in existence might have difficulty in selecting small, community stations. However, receiver standards have been long overdue for an upgrade. Given such a reappraisal of standards one might well find that current technology ought to make 200k channel spacing absolutely quaint; thus providing space for the thousands of new community stations we all claim to support! In fact, with terrestrial digital around the corner, the existing receivers the Commissioner is so anxious to protect will all be obsolete in a short time anyway.

The Commissioner is correct in saying that many proponents hope LPFM will lead to an increase in broadcast ownership by minorities and women. Again, simply because there is no assurance of this result, he suggests we simply abandon community radio completely. Of course, there are few assurances about anything in life, and most of the decisions we make come down to a comparison of the odds. And we think it is obvious, based on demographic statistics certainly available to the Commission, that so long as stations cost in the millions of dollars, most of them will be owned by rich, white men. Conversely, the lower we are able to bring the entry point for broadcasting, the greater of a range of skin color, gender, religion, ideology, etc., we will find who qualify.

It is curious that the Commissioner cannot seem to bring himself to admit to finding even one meritorious argument in the 47-page NPRM. Far more alarming though, is his tendency to twist the very benefits of LPFM into arguments against its implementation. And time after time, simply because the NPRM fails to

fix perfectly everything that is wrong with radio today, Furchtgott-Roth demands that LPFM be scrapped: because too few stations will be created, because it makes no absolute guarantee of increased diversity, because Congress may impose auctions anyway, etc.

As expressed earlier, it is ridiculous on the face of it to suggest that statutory regulations passed by Congress regarding stations of a value at least one thousand times as great as LPFM stations should have any bearing on an entirely new and unique form of service of which Congress could have had no understanding at the time.

The Commissioner also attacks the proposed ownership regulations for LPFM because they “*would ensure that no one with any actual experience in broadcasting could actively participate in these new stations... these stations may be pushed toward second-class performance and quality levels.*” This is simply untrue. Of the hundreds of thousands of people in this country with broadcasting experience, only those with a financial interest in an existing full-power station will be barred from LPFM. They can always sell their full-power station if they want to get into LPFM! But until there is room for everyone to have one, then there is no room for anyone to have two.

This paragraph reflects an unfortunate elitism that should be examined more closely. The Commissioner apparently perceives the broadcast world as a kind of country club which will be cheapened if forced to accept the poor people. First, we have already shown that people with experience will be welcome to participate; except that now they will get the chance to be the owner rather than perhaps an underpaid and under-appreciated lackey at a full-powered station. Second, a more positive perspective would be to consider that those entering the broadcast world for the first time might actually bring something fresh and exciting into what is by anyone’s estimation a rather dull and formulaic industry. Third, this attitude ignores the crucial and consistent role played by amateurs in the development of the technology. Fourth, it assumes that existing broadcasters always present first-class performance and quality levels, which is hard to square with the preponderance of Howard Stern act-alikes. Fifth, it is one of the weakest justifications for acting in prior restraint of free speech we’ve ever heard!

Actually, this logic has its appeal when applied, for example, to the public highways. In that case and considering the dangers to self and others, there seems to be a clear interest in requiring that only the top expert drivers in the country ever be allowed to use our highways and roads. Perhaps the great majority of us should be required to limit ourselves to bicycles! Yet, instead society demands only a minimum standard of expertise, and considers the public health risks involved to be unfortunate but acceptable. In radio, where it is quite difficult to imagine anyone being killed or maimed by a simple mistake, we can certainly afford to require, again, only a bare minimum standard of expertise. And rather than wasting resources in the effort to keep people out of broadcasting, the F.C.C. would best serve the public interest by helping people to obtain knowledge and experience.

As abundantly expressed elsewhere, we are not at all opposed to terrestrial digital radio. In fact, we feel certain that an open investigation of the many terrestrial digital broadcast options will bring light on several possibilities that would enhance rather than limit the implementation of community radio. However, the F.C.C., as a result of nothing other than pressure from broadcast lobbyists, has become fixated on IBOC, which will limit the development of community radio while offering absolutely nothing of value to the American public.

Commissioner Furchtgott-Roth complains that the FCC has already made up its mind in favor of community radio and has tilted the scales even in advance of the NPRM. Of course, it is with IBOC, not LPFM, that all evidence points to the agency becoming "*an advocate instead of a neutral decision-maker.*" IBOC is far from having been officially selected, and yet almost without fail the agency refers to its inevitable implementation. If Mr. Furchtgott-Roth is sincere about his procedural concerns -- and we believe his general statements about procedural issues are quite correct -- he ought to stand in protest of IBOC, not LPFM.

Perhaps most perplexing of all is his statement that perhaps "*the substantial interest in and public support for this rule-making was not partly generated by the Commission itself with its web site page for low power radio.*" When this page was first created, for days it listed the wrong docket number for

LPFM! That might give an idea to what degree this very recent web-page “*cart*” has been drawing the LPFM “*horse*.” The movement for community radio goes back at least 15 years and the web-page is barely a few months old! Does the Commissioner not realize that thousands of Americans have been broadcasting without licenses over the last decade, and that his agency is shutting them down by the hundreds? Has he failed to see a single article of the thousands published in recent years? How does he explain the 13,000 requests for licenses received last year by the agency – before the web page was even created?! How can he possibly attribute any of the massive popularity enjoyed by community radio to a single web page out of tens of millions, and one that is very rarely even updated?!

The Commissioner also makes use of the “*separate-but-equal*” argument that “*community participation*” can be achieved through public-access cable, the Internet, e-mail, etc., and thus LPFM is unnecessary. Of course, by this logic, the Supreme Court ought to be able to ban the publication of independent books and magazines – after all, people are able to express themselves on a milk crate in a public park, so why do they need to write, publish and read, too? We examine individually the alternatives offered by the Commissioner in Sec. 11 *Alternative Proposals*.

We restate:

“To the extent that the Internet is truly democratic – we are delighted. Let that aspect of the Internet serve not as a replacement but as a model for LPFM.

In this way, the intrinsic advantages and benefits (not ignoring their obvious limitations) of each of the modes of communication offered by the Commissioner should serve as inspiration towards creating the best possible LPFM service. For example, one benefit of simple flyers is that copy machines are relatively accessible and easy to operate. So we should design an LPFM service with those goals in mind! What is it that we like about cable public access? Let’s use that for LPFM! This is a much more appropriate perspective for a public-interest-minded F.C.C.