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Federal Communications Commission
Washington, D.C. 20554

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Mr. Thomas A. Koser
President, WJMC Radio
1859 21st Avenue
P.O. Box 352
Rice Lake, WI 54868

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JUL 26 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Mr. Koser:

Senator Herbert Kohl has requested that the Federal Communications Commission respond to your correspondence regarding the Commission's proposal to create a low power FM (LPFM) radio service. You are concerned that low power FM stations would interfere with FM radio reception and impair the transition to digital audio broadcasting. You question the need for LPFM services, and you also state your belief that the proposed LPFM eligibility and ownership rules are inconsistent with the Telecommunications Act of 1996 and the Balanced Budget Act of 1997.

The Commission initiated its proceeding to consider whether to authorize low power radio broadcasting on January 28, 1999. In a *Notice of Proposed Rule Making*, the Commission proposed to authorize new 1000 watt and 100 watt radio stations, and sought comment on a proposal to create a third class of stations at power levels from 1-10 watts. In adopting the *Notice*, the Commission stated that its goals are to provide new opportunities for community-oriented radio broadcasting, to foster opportunities for new radio broadcast ownership, and to promote additional diversity in radio voices and program services. As discussed in the *Notice*, the Commission is concerned that radio station ownership consolidation may have a significant impact on potential new entrants into the radio broadcasting business by driving up station prices, thereby exacerbating the difficulty of entering the broadcast industry and of surviving as an independent operator.

Since adopting the *Notice*, the Commission has heard from thousands of people who want to use the airwaves to speak to their communities – college students, churches, community groups, elementary school principals, independent musicians, and minority groups. These citizens believe that the airwaves are a tremendous public resource, and the creation of a low power radio service could provide an effective way for more people to use this resource. Low power FM stations could provide a low-cost means of serving small towns and communities, as well as urban communities and neighborhoods.

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In determining whether to create a low power radio service, the Commission is committed to protecting existing radio services and preserving the technical integrity of radio service currently available. The *Notice* proposes new technical rules and geographic spacing requirements to ensure that new LPFM stations would not cause interference to existing full power FM radio stations. The *Notice* tentatively concludes that LPFM stations authorized without third-adjacent channel protection requirements, and possibly without second-adjacent protection as well, would not pose a significant risk of interference to authorized radio service, a finding partially based on the Commission's experience with short-spaced full power stations. However, the Commission has asked commenters to address the likelihood and potential extent of any harmful effects on current stations and listeners, taking into account the size and location of the areas possibly affected and the interference immunity of the existing receiver population. We have also requested comment on the state of receiver technology and the ability of receivers to operate satisfactorily in the absence of second-adjacent channel protection. We will seriously consider studies and technical data submitted by commenters addressing these interference issues.

Also, the Commission will not support any new service that would have a negative impact on the future introduction of terrestrial digital audio broadcasting. Reflecting this concern, the *Notice* specifically asks commenters to submit technical data concerning the possible effects of LPFM stations on the transition to a terrestrial digital radio service. It also proposes that LPFM facilities in the 100-watt and 1-10-watt class not be permitted to interfere with a full power station's digital signal within that station's protected service area.

The *Notice* states that the benefits of increased opportunity for entry, enhanced diversity, and new program services may be hard, if not impossible, to achieve if LPFM stations are made available to existing broadcasters, or if a number of the new LPFM facilities in an area are under common control. Accordingly, the Commission proposes in the *Notice* to prohibit existing broadcasters from acquiring low power radio stations, and to adopt strict ownership limits for LPFM stations. In so doing, we note that the Telecommunications Act of 1996 allows significant multiple ownership of full power radio stations. Therefore, we have expressly asked for comment on whether those provisions would apply to a new service such as low power FM, which did not exist in 1996. We have also asked how the auctions provisions of the Balanced Budget Act may affect how mutually exclusive commercial LPFM applications would be resolved. Of course, we must comply in all respects with the Telecommunications Act of 1996 and the Balanced Budget Act of 1997.

In order to help us ensure a high-quality record and facilitate the ability of parties to explore the complex technical issues in this proceeding, we recently extended the comment

Mr. Thomas A. Koser

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period in this proceeding by 60 days. Comments now are due August 2, 1999, and reply comments are due September 1, 1999. Based on its evaluation of the record created in this proceeding, the Commission will determine whether to authorize a low power radio service. The Commission will include your letter in the record of the proceeding and evaluate all comments thoroughly.

Thank you for your interest in this matter.

Sincerely

A handwritten signature in cursive script that reads "Roy J. Stewart". The signature is written in black ink and is positioned above the typed name and title.

Roy J. Stewart
Chief, Mass Media Bureau

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typed: 7/7/99