

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In the Matter of)	
)	MM Docket No. 99-25
)	
Creation of a Low)	RM-9208
Power Radio Service)	RM-9242
)	

To: The Commission

**SUPPLEMENTAL REPLY COMMENTS OF
CLEAR CHANNEL COMMUNICATIONS, INC.**

Clear Channel Communications, Inc. (AClear Channel_≡), pursuant to the Commission's Rules and the Commission's *Order* issued on September 17, 1999, respectfully submits these supplemental reply comments with regard to the Commission's *Notice of Proposed Rule Making* on digital audio broadcasting ("DAB") systems 1/ and its relationship to the above-captioned proceeding, which has proposed the creation of up to three different classes of low power FM radio (ALPFM_≡) stations. 2/

Clear Channel applauds the Commission's recognition of the crucial relationship between the advent of digital radio and formal consideration of any proposal for new LPFM

1/ *Notice of Proposed Rule Making, Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service*, MM Docket No. 99-325 (released November 1, 1999) ("*DAB Notice*").

2/ *Notice of Proposed Rule Making, Creation of a Low Power Radio Service*, MM Docket No. 99-25 (released February 3, 1999) ("*ALPFM Notice*").

services. As Clear Channel and other commenters have noted in this proceeding, any introduction of LPFM necessarily will delay the advent of terrestrial digital radio in the United States.

However, certain elements of the *DAB Notice* suggest that the Commission is willing to risk the future of terrestrial radio B a future in which terrestrial radio risks losing its ability to compete against dozens of new sources of digital transmissions -- in order to add new low-power station allotments to the FM band in the next two years. Such an emphasis on LPFM before DAB would pose both extensive technical and regulatory risks, as well as put the LPFM cart before the horse that is the future viability of free, over-the-air radio.

I. THE ADVENT OF DIGITAL RADIO, WHICH IS VITAL TO THE FUTURE OF RADIO, CONFIRMS THAT LPFM SERVICES CANNOT BE AUTHORIZED AT THIS TIME.

Like the introduction of digital television, DAB stands the best chance of success if it can be implemented in a manner that would encourage consumers to invest quickly in digital-compatible receivers. In other words, the transition should strive to be quick and relatively problem-free. Such a rapid transition to digital radio is not just critical to the acceptance of the new technology by consumers and broadcasters, but also to the future of radio. Simply stated, radio has too many competitors to risk moving slowly to digital.

Accordingly, to be successful, the ultimate framework for a DAB transition must be:

technically feasible;

sufficiently understood and competently implemented by individual stations; and

supported by the full panoply of the Commission=s radio policy and technical experts.

Any consideration of LPFM prior to DAB implementation undermines the likelihood of each of

these prerequisites.

First, having to take into account the ramifications of any LPFM proposal cannot help but add to the technical complications confronting DAB. In this very proceeding, LPFM has been shown to pose demonstrable dangers of significantly increased interference to existing analog radio signals. Since the comprehensive studies of National Public Radio, CEMA, and the NAB show that LPFM will interfere with *existing* radio signals, any serious consideration of LPFM at this time assuredly will slow the steps necessary to any DAB transition.

Second, introduction of LPFM stations prior to DAB implementation greatly increases the chances that stations will not have the necessary resources, interest, or engineering ability to further any implementation of DAB. Such failings are likely to increase listener dissatisfaction with any digital radio transition. Worse, as already noted in this proceeding, any new LPFM stations **B** whether they are in the process of switching to digital transmissions or not **B** assuredly will increase the actual objectionable interference suffered by listeners of digital (as well as existing analog) radio transmissions. **3/**

Third, the Commission cannot expect to oversee a digital transition and the creation of new LPFM stations simultaneously, as any LPFM implementation would involve tedious and time-consuming resolution of legal, technical and practical issues on a daily basis. For instance, the Commission already has proposed to make staff available to respond to all potential LPFM applicants and to create whole new forms, checklists, and filing procedures for

3/ Such concerns are not foreign to the Commission. *See Sixth Further Notice of Proposed Rulemaking, Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, 11 FCC Rcd 10968, 10992-93 (1996) (A To continue to accept new applications for NTSC stations, now that we are approaching the actual start of this new service, could potentially prolong the

LPFM stations. Such proposals underscore that, even if the potential for widespread, LPFM-induced interference is unwisely ignored, LPFM consideration is simply too much of a burden to be considered at this time; instead, such consideration must wait until the Commission successfully has guided the imminent transition to all of radio's digital future.

Side-by-side analysis of the two proposals confirms that DAB must precede LPFM for at least the following reasons:

the transition to digital radio promises demonstrable benefit to all radio listeners and broadcasters in the United States, as opposed to only those listeners who actually want to hear unproven LPFM programming;

a prompt transition to digital audio broadcasting is critical to the future viability of radio, without which the addition of new radio outlets would be a waste of resources for listeners and potential broadcasters alike;

the transition to digital is a finite process, one which has a beginning and an end, while the licensing and monitoring of LPFM stations presumably will be a never-ending process, which permanently will increase the burdens on radio spectrum, the Commission, and any future transition to digital; and

DAB implementation would prompt new interest in audio receiver technology, and give consumers a reason to obtain receivers -- unlike many clock or portable radios of today -- that might be better equipped to handle any introduction of LPFM signals.

All of these reasons independently corroborate that any consideration of LPFM must follow a successful transition to digital audio broadcasting. Unlike television, radio has not yet had to request that the Commission invest extensive new resources into guiding radio's transition to digital. But the Commission should not add new obstacles -- such as the introduction of new LPFM radio stations that are not subject to current interference protections -- to radio's digital transition.

transition process.≡)

**DESPITE THE CLEAR REASONS TO IMPLEMENT DAB PRIOR TO LPFM, THE
DAB NOTICE WRONGLY SUGGESTS THAT DAB WILL BE LIMITED
BY THE PROJECTED NEEDS OF A HYPOTHETICAL LPFM SERVICE.**

In paragraph 25 of the *DAB Notice*, the Commission referenced LPFM and indicated that it would consider whether an IBOC signal was sufficiently robust to reject second- and third-adjacent LPFM signals as a criterion for any DAB system. Rather, the converse is true. A rapid transition to digital radio is a necessity to the immediate future of radio; LPFM is not. The Commission should not base its decision as to the form of radio's future on a criterion that is intended to benefit a service that may never exist. Rather, the Commission's priority must be to create a DAB model that will enable existing terrestrial radio services to compete, as quickly as possible, with other forms of digital transmissions, including satellite radio.

Other implications of the *DAB Notice* also raise the issue of whether the Commission intends to slow or complicate any digital transition based on conjectural concerns of a hypothetical LPFM service. For instance, in paragraph 33 of the *DAB Notice*, the Commission indicated that it does not intend to enable existing radio broadcasters to duplicate their actual service areas, but only their projected service areas, in a digital environment. It is not clear to what extent this proposed limitation on coverage is intended largely to benefit hypothetical broadcasters. The Commission should not undermine the provision of digital service to actual listeners of existing stations just to preserve potential opportunities for non-existent services.

Finally, paragraphs 41 and 49 of the *DAB Order* suggest the possibility of authorizing new spectrum for the DAB transition. To the extent this proposal is a real option, the Commission also should consider authorizing that spectrum for additional full-power FM signals B both digital and analog -- which then could obviate any alleged need for additional congestion

on the existing FM band by LPFM services.

III. CONCLUSION

Terrestrial radio is the only major communications service that is not yet transitioning to digital means of transmission. In the meantime, a key element of what radio has to offer -- a quality audio signal -- risks falling behind the offerings of radio's increasing number of competitors. The digital transmissions of the Internet, compact discs, and, soon, satellite digital radio offer an undeniably clearer and sharper means of providing audio programming. As the economic viability of free, over-the-air radio depends on the quality of its audio signal, neither radio nor the Commission can afford to risk further delay to the advent of digital audio broadcasts. To risk that delay simply in order to create additional FM allotments *right now* would be senseless.

Accordingly, Clear Channel again asks that the Commission table consideration of any general LPFM proposal until DAB has been tested and broadly implemented throughout the United States.

Respectfully submitted,

**CLEAR CHANNEL
COMMUNICATIONS, INC.**

By: _____
Kenneth E. Wyker
Senior Vice President

November 15, 1999