

APPENDIX C

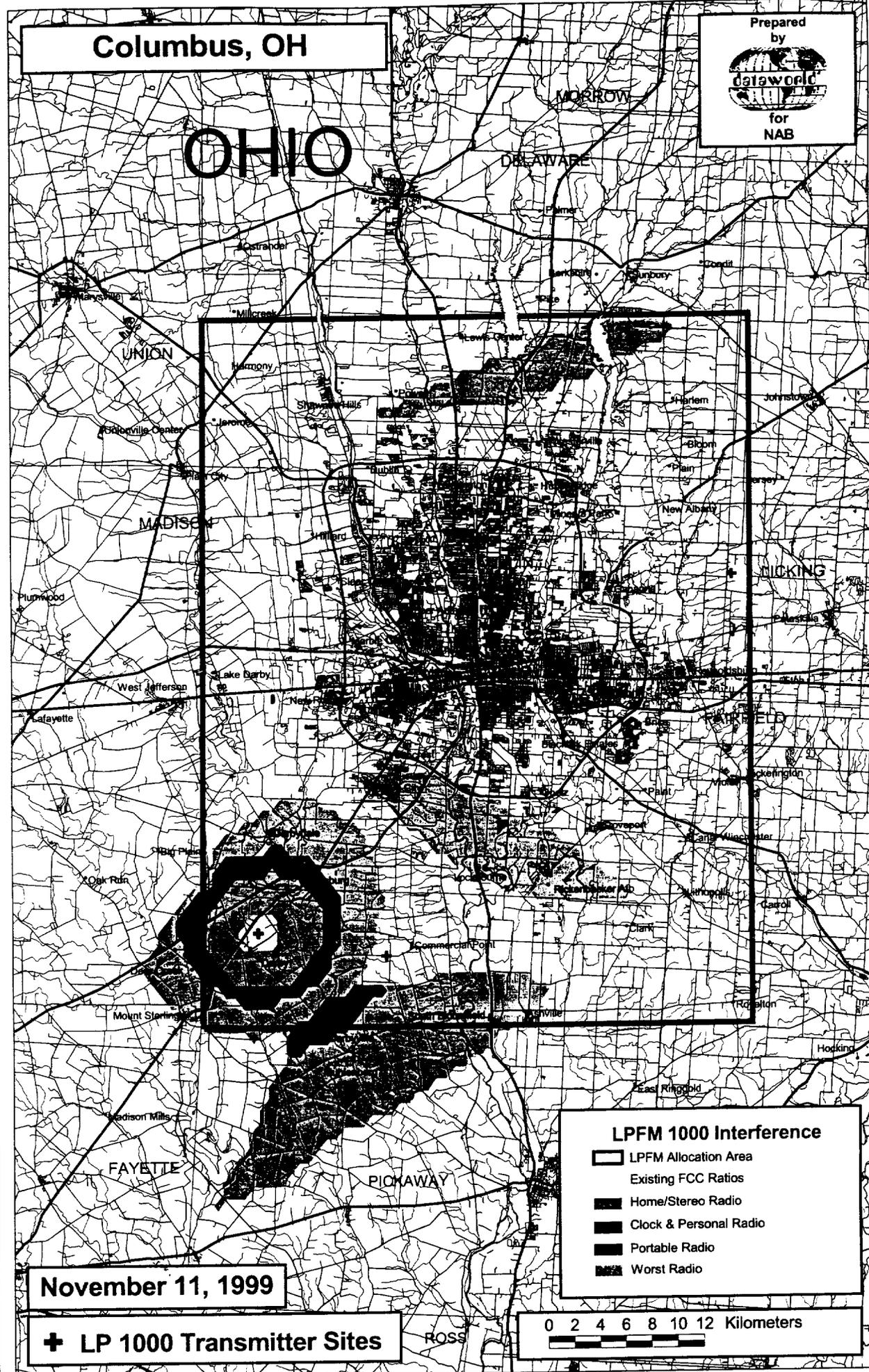
APPENDIX C

Columbus, OH

Prepared by

for
NAB

OHIO

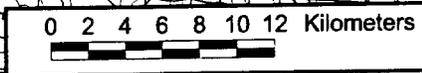


November 11, 1999

+ LP 1000 Transmitter Sites

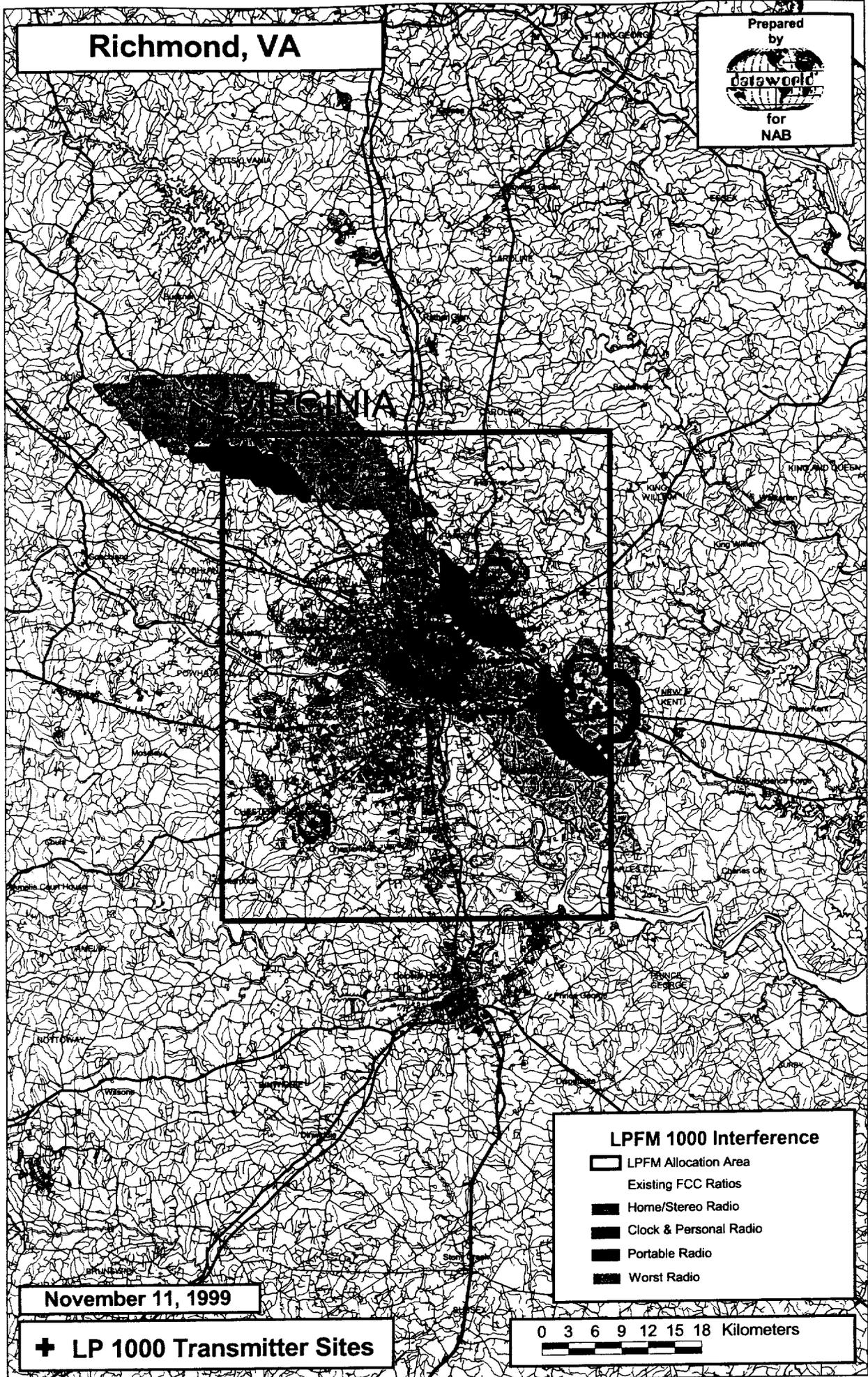
LPFM 1000 Interference

-  LPFM Allocation Area
-  Existing FCC Ratios
-  Home/Stereo Radio
-  Clock & Personal Radio
-  Portable Radio
-  Worst Radio



Richmond, VA

Prepared by
dataworld
for
NAB



November 11, 1999

+ LP 1000 Transmitter Sites

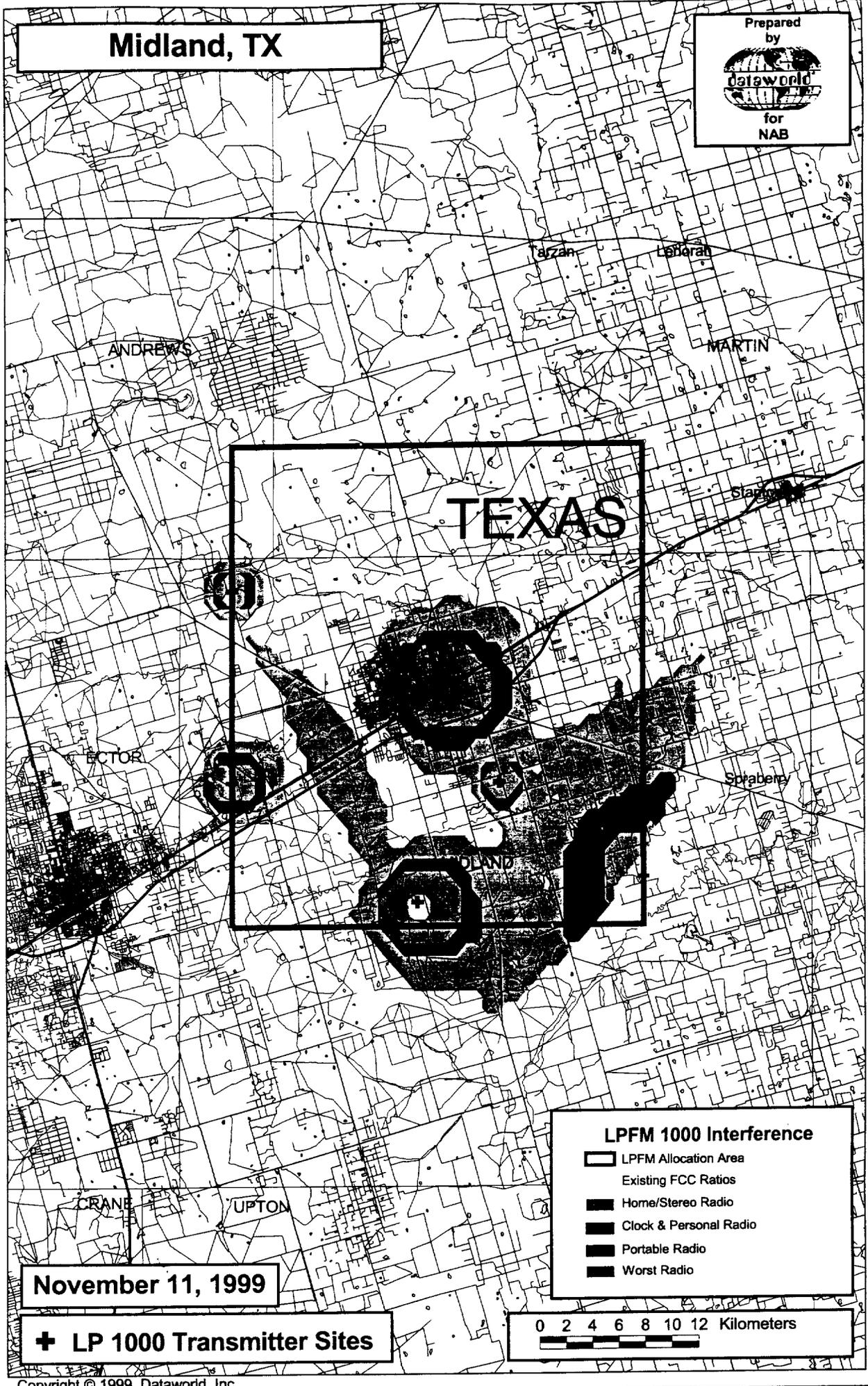
LPFM 1000 Interference

- LPFM Allocation Area
- Existing FCC Ratios
- Home/Stereo Radio
- Clock & Personal Radio
- Portable Radio
- Worst Radio

0 3 6 9 12 15 18 Kilometers

Midland, TX

Prepared by
dataworld
for
NAB



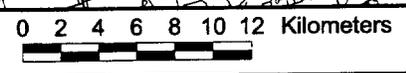
TEXAS

LPFM 1000 Interference

-  LPFM Allocation Area
- Existing FCC Ratios
-  Home/Stereo Radio
-  Clock & Personal Radio
-  Portable Radio
-  Worst Radio

November 11, 1999

+ LP 1000 Transmitter Sites



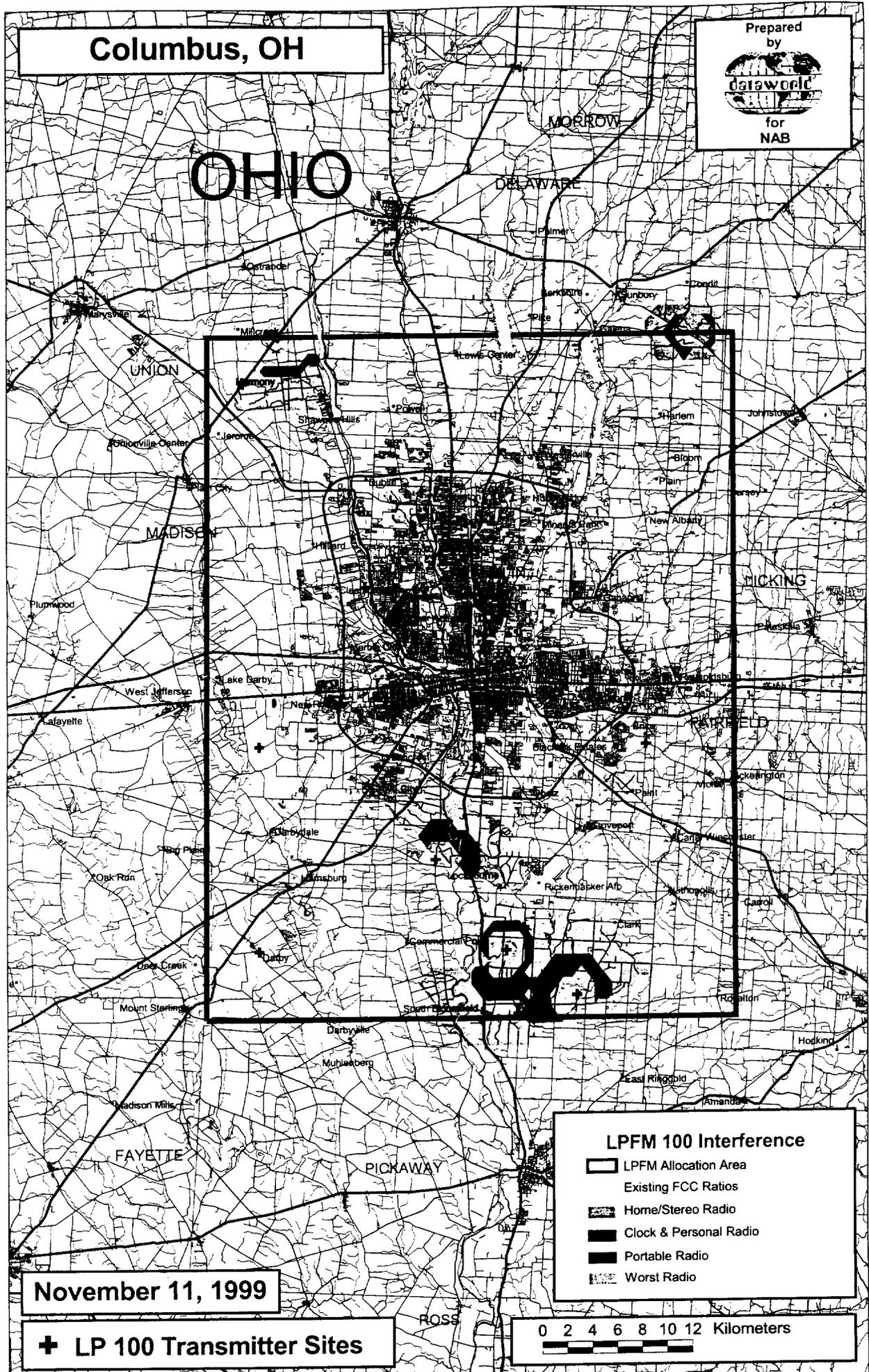
Columbus, OH

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for NAB

OHIO



November 11, 1999

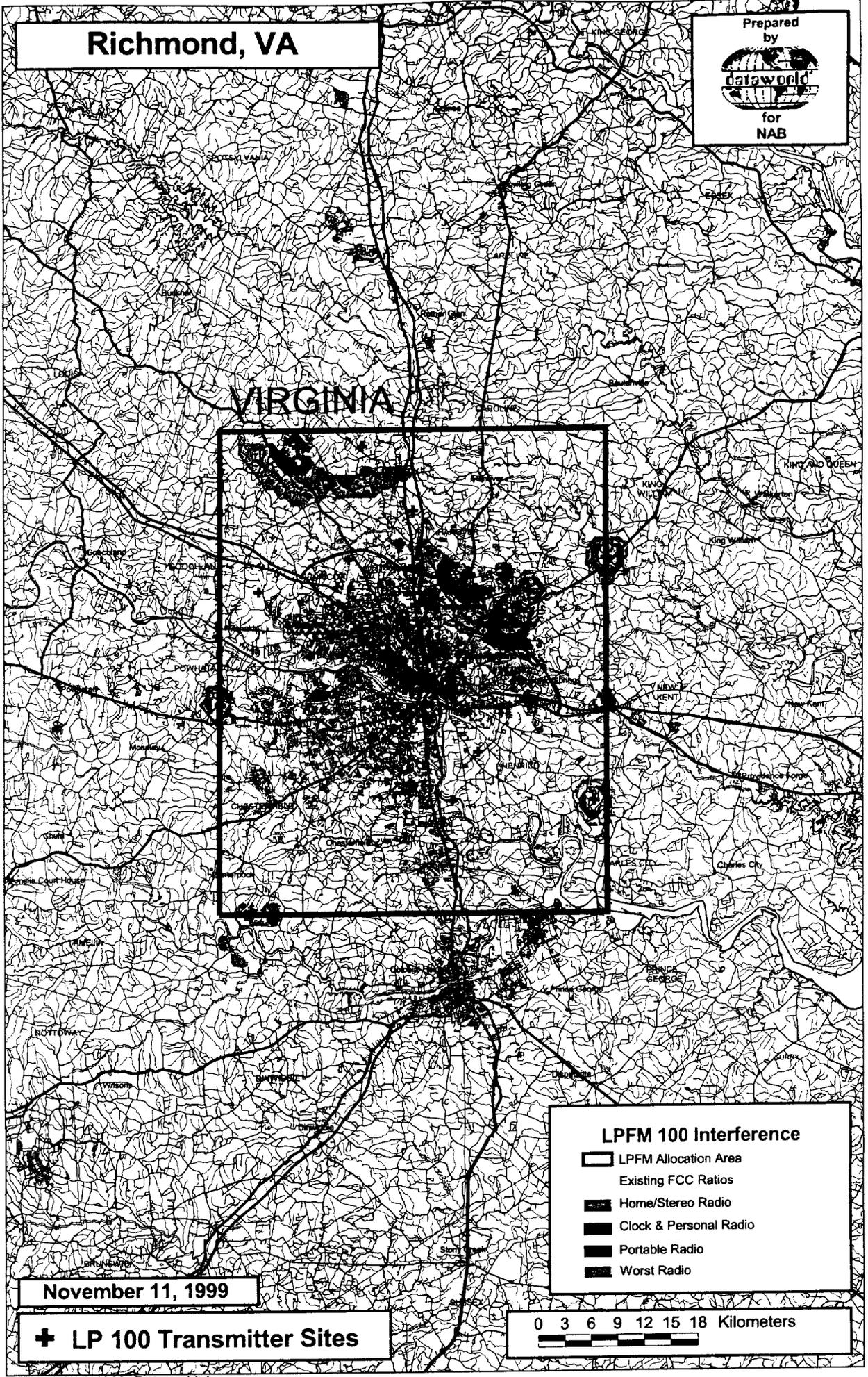
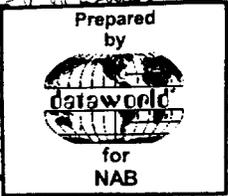
LP 100 Transmitter Sites

LPFM 100 Interference

- LPFM Allocation Area
- Existing FCC Ratios
- Home/Stereo Radio
- Clock & Personal Radio
- Portable Radio
- Worst Radio

0 2 4 6 8 10 12 Kilometers

Richmond, VA



VIRGINIA

LPFM 100 Interference

-  LPFM Allocation Area
-  Existing FCC Ratios
-  Home/Stereo Radio
-  Clock & Personal Radio
-  Portable Radio
-  Worst Radio

November 11, 1999

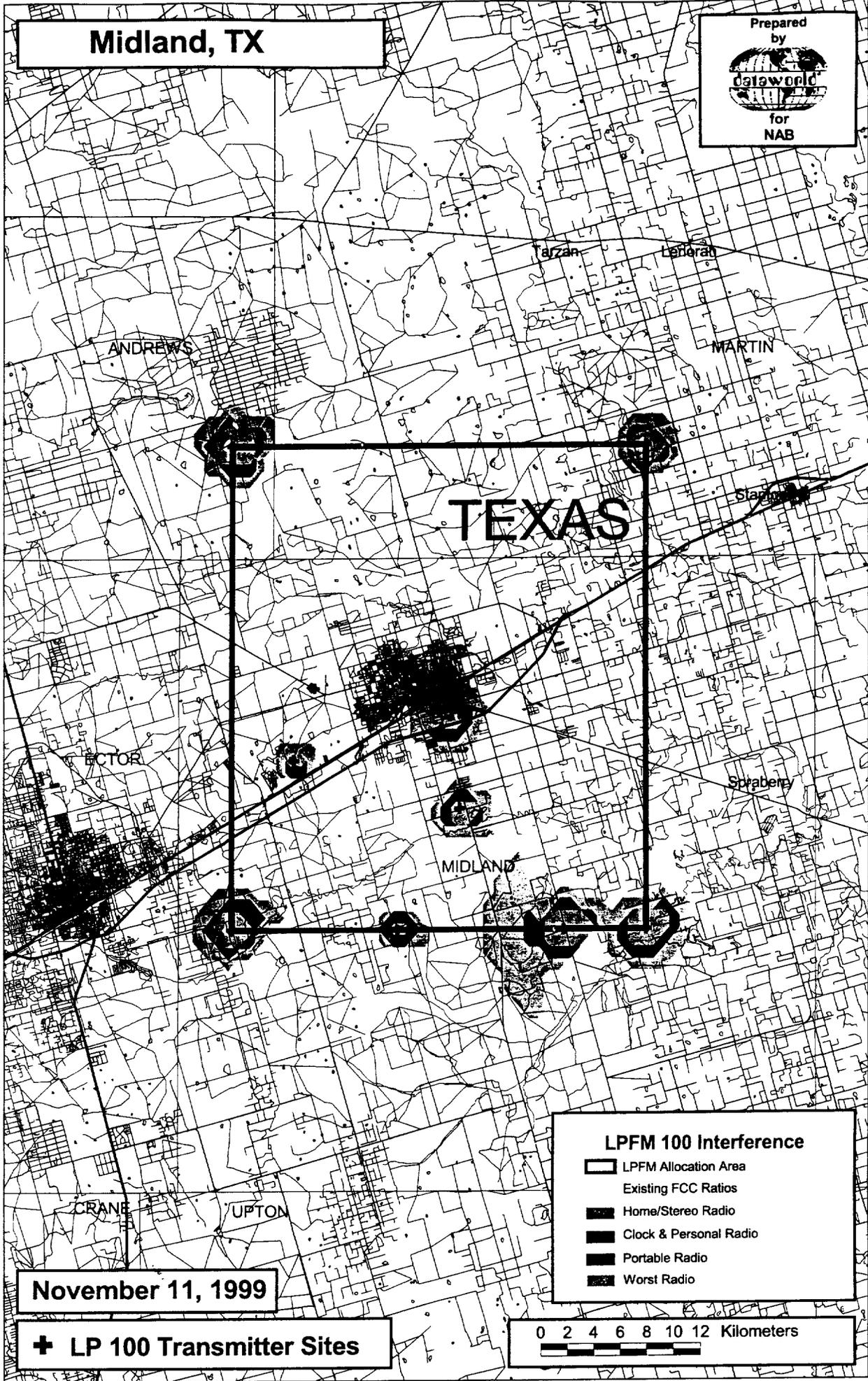
+ LP 100 Transmitter Sites

0 3 6 9 12 15 18 Kilometers

Midland, TX

Prepared by

for
NAB



ANDREWS

Parzan

Leboran

MARTIN

TEXAS

Slavin

ECTOR

Sprabery

MIDLAND

CRANE

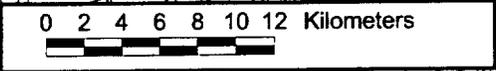
UPTON

November 11, 1999

+ LP 100 Transmitter Sites

LPFM 100 Interference

- LPFM Allocation Area
- Existing FCC Ratios
- Home/Stereo Radio
- Clock & Personal Radio
- Portable Radio
- Worst Radio



APPENDIX D

 Australian Communications Authority		Apparatus Licensing	
Home		What's New	Links
Contact: Radiocommunications Licensing Policy		Updated: 12 Oct 1999	www.aca.gov.au/publications/info/lpon.htm

Low Power Open Narrowcasting Services

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Introduction

Low Power Open Narrowcasting (LPON) services are designed to provide narrowcasting programs to a limited area; typically a radius of two to five kilometres (km) in residential areas, and a radius of five to ten km in rural areas.

LPON services operate within the FM radio broadcasting band using the channels centred on the frequencies 87.6 MHz, 87.8 MHz and 88.0 MHz. These frequencies are within that part of the radiofrequency spectrum referred to the Australian Broadcasting Authority (ABA) for planning. The ACA licenses LPON services on behalf of the ABA.

Regulatory regimes administered by both the ABA and the ACA have an impact on LPON services. The ABA regulates the program content of LPON services; the ACA is responsible for determining technical conditions under which the station may operate, as well as minimising interference to and from the LPON transmitter.

An LPON service must not be operated as a broadcasting service (as defined by the ABA). In other words, the reception of the LPON service is to be limited in some way. For example, reception could be limited:

- by being targeted to special interest groups, for example people choosing to follow a particular religion; or
- by being intended for limited locations only, for example, arenas or business premises; or
- by being provided during a limited period or to cover a special event, for example, a community fair; or
- because the programs are of limited appeal, for example, a language program other than English.

Applicants and licensees may seek an opinion from the ABA about whether their service or proposed service is categorised as narrowcasting.

Program Content

Typical LPON services provide information for tourists, horse racing results, snow reports and skiing information, real estate information, shopping information, Aboriginal language programming and religious programming. Music content is permitted.

Advertising is also permitted on LPON services, providing that the advertising complies with relevant programming standards and codes administered by the ABA.

Applying for a Radiocommunications Transmitter Licence

Applicants wishing to operate an LPON service, should complete the ACA forms entitled Application for Apparatus Licence(s) (RF57) and Application for Additional Station Information (RF77).

The location of the proposed transmitter must be clearly, accurately and unambiguously described in the licence application (for example, at western end of main building, Smithtown Shopping Village, Webster Road, Smithtown). In addition, applicants must provide either Australian Map Grid coordinates (to an accuracy of 10 metres), or a map from which the ACA can accurately calculate these coordinates.

Once an application for an apparatus licence for an LPON service is received, the ACA will undertake co-ordination work to ascertain whether the service can operate at the nominated location without causing harmful interference to other services. A fee is charged for that work, irrespective of whether a licence is issued. For this reason it is strongly advised that applicants check for the presence of existing LPON services in the area in which they are interested before submitting a formal application to the ACA.

Minimum separation distances apply to LPON transmitters using the same, or an adjacent, frequency. Applications will be rejected and returned to the applicant where these distances are not met. ACA offices are able to provide further information about separation distances.

For frequency co-ordination and interference management purposes, the ACA needs to observe certain frequency separation distances, in respect of all three frequencies, in areas where:

- VHF television channel 3 is operating; or
- FM radio services are operating on 88.1 MHz.

In areas where FM radio services are operating on 88.3 MHz frequency separation distances for the

frequencies 87.8 MHz and 88.0 MHz apply.

Radiocommunications Licensing Option

If an application for an LPON service is successful, a radiocommunications apparatus licence will be issued under the Narrowcasting Service licensing option of the Broadcasting licence type.

Licence Conditions

The operation of all radiocommunications equipment authorised under a licence issued by the ACA is subject to:

- conditions specified in Radiocommunications Act 1992 (the Act), including an obligation to comply with the Act;
- a condition that any radiocommunication device operated under the licence must comply with all the standards applicable to it;
- conditions specified in any determinations made by the ACA under section 107(1)(f) of the Act;
- conditions specified in the licence; and
- any further conditions imposed by the ACA under section 111 of the Act.

Generally, conditions are applied to licences to enable users to communicate effectively, with an acceptable level of interference. All conditions relating to a licence must be complied with.

Licensees are also required to comply with the provisions of the Broadcasting Services Act 1992, administered by the ABA. Conditions relating to program standards, codes of practice and advertisements are regulated by the ABA.

Licence Conditions Determinations

The ACA may determine, by written instrument, conditions relating to apparatus licences. These conditions are known as Licence Conditions Determinations (LCDs).

The Radiocommunications Licence Conditions (Apparatus Licence) Determination No. 1 of 1997 contains conditions of licence that are common to all apparatus licences.

The conditions applicable to all broadcasting licences (including those for LPON services) are contained in the Radiocommunications Licence Conditions (Broadcasting Licence) Determination No. 1 of 1998. The LCD includes conditions relating to the types of use, interference provisions and associated technical restrictions such as modulation, power and bandwidth.

An advisory note is automatically attached to licences where an LCD is in force. The note will advise of the applicable LCD.

The licence conditions imposed through the relevant LCD may change from time to time. Licensees should ensure that they have informed themselves of the current conditions imposed by the ACA.

Special Conditions

Any other conditions of operation that apply to individual licences but are not included in the LCD will be printed on the licence under the heading 'Special Conditions'.

An accredited person may ask the ACA to impose one or more special conditions on the

licence according to the circumstances in which the frequency assignments for the licence are made.

Advisory Notes

Advisory notes providing information that may be of interest to a licensee will be printed on the licence under the heading 'Advisory Notes'.

Technical Considerations

The ACA, in consultation with the ABA, has developed a simple planning model to facilitate the introduction of LPON services. The model has within it technical rules to assist applicants to be licensed quickly, subject to spectrum availability.

The technical rules for LPON services are designed to give interference-limited coverage within a radius of two km from the transmitter in non-rural (or residential) areas and 10 km from a transmitter in rural areas. A rural area is defined as being at least 20 km from the boundary of any residential area as determined from Australian Bureau of Statistics (ABS) data for towns and cities. The ABS defines a residential area as a bounded locality containing 200 or more residents.

The output power for LPON services is limited to a maximum transmitter power of one watt effective radiated power, or 1.64 watts Equivalent Isotropic Radiated Power (EIRP), in non-rural areas and ten watts effective radiated power (16.4 watts EIRP) in rural locations. Typically, these powers would be provided by one watt and ten watt transmitters, respectively.

Conditions of licence specify that the received signal field strength in a residential area must not exceed 48 decibel microvolts per metre (dBuV/m) at two km from the LPON service transmitter. In rural areas, the received signal field strength must not exceed 48 dBuV/m at ten km from the LPON service transmitter. The 48 dBuV/m field strength limit forms the basis for the re-use distances applied to LPONs.

Applicants may plan their LPON services in a manner that suits them, as long as the technical rules are followed. For example:

- providing that the maximum EIRP is not exceeded in any direction, licensees may use any type of antenna or polarisation; and
- while there is no restriction, per se, on the height of the transmitting antenna, licensees should comply with the 48 dBuV/m field strength limit. To operate within that limit, it may be necessary to reduce the radiated power of the transmitter below the maximum permitted or for the transmitting antenna to be lowered.

Frequency assigners should also refer to the planning model, for additional information.

An LPON service may be operated ONLY from the location at which it is licensed. Operation from other locations is not authorised and is an offence under the Radiocommunications Act 1992.

LPON Services Minimum Separation Distances

The minimum separation distances for LPON services are provided in Table 1.

Table 1 - LPON Services Minimum Separation Distances

Frequency Separation (kHz)	Distance between 1 watt LPON services (kilometres)	Distance between 10 watt LPON services (kilometres)	Distance between 1 watt and 10 watt LPON services (kilometres)
0	10	30	20
200	5	15	10
400	0	0	0

For example, a one watt (ie, residential) LPON service on 88.0 MHz must be at least ten km from another station on 88.0 MHz and at least five km from a station on 87.8 MHz, however no minimum separation is required from a station on 87.6 MHz.

Checking for Existing LPON Services

If an applicant wishes to minimise the amount of frequency co-ordination work required to be performed by the ACA, there are several methods by which he or she may check for existing LPON services in the area in which he or she is interested.

Many licensees have not yet activated their LPON services. Simply tuning an FM radio through the band at any location will not necessarily indicate that a licence has not already been granted for that area.

Examination of data on the ACA's CD-ROM (available monthly at a cost of \$109 per CD) will give an indication of LPON services at the time of issue of the CD-ROM. However greater assurance may be obtained by asking the ACA for an adjacent services list (ASL) to be produced for the proposed site. This service costs \$98. Should a station or stations appear on the ASL, the ACA will provide details of the licence holder(s) to facilitate any negotiation between parties.

Callsigns

Callsigns are a unique series of letters and/or numbers assigned to a radiocommunications user to identify a station. LPON services are not required to have a callsign. However a callsign will be generated, if desired, and will consist of the letters and numerals in Table 2.

Table 2 - LPON Services Callsign Template

aaamnn	LPON services callsign template (example of typical callsign VKA714)
aaa	first two alpha characters are VJ, VK, VL, VM, VN, VZ, or AX, with the third character being any alpha
m	numeric character 2 - 9
n	numeric character 0 - 9

Duration

The ABA makes the 87.5 - 88.0 MHz sub-band available under section 34 of the *Broadcasting Services Act 1992*, for licensing of LPON services, for a specified period only.

While it is possible for the ACA to issue apparatus licences for any period from one day up to five years, licences for LPON services cannot be issued for a date that extends beyond the date to which the spectrum has been made available by the ABA. To date, the ABA has made the sub-band available for periods that allow a minimum licensing period of twelve months for LPON services.

Changing Technical Operating Parameters

Licensees must apply to the ACA, in writing, if they wish to change the technical operating parameters of their LPON service. In the majority of cases, such an application will require the ACA to undertake new frequency co-ordination activity. These applications are assessed against the same engineering criteria used to assess new applications. A fee is charged at the hourly rate of \$156 for the co-ordination and re-licensing processes, however the charge will not exceed the new licence issue fee of \$321. As with applications, the ACA is obliged to charge a fee for this work, irrespective of whether the application for changes to the technical operating parameters of the LPON service is successful.

The most common change requested for LPON services is a change to the location of the transmitter. Licensees considering transmitter location changes are encouraged to apply for an ASL in order to determine, for themselves, the likelihood of success.

Transfers of Apparatus Licences

Apparatus licences for LPON services may be transferred. Applicants wishing to transfer an apparatus licence authorising an LPON service should complete and submit to the ACA, the form entitled Application for Transfer of Apparatus Licence(s) (RF60). The transfer form must be signed by both the transferer and the transferee. Applicants are required to pay a transfer charge to cover the ACA's administrative expenses.

Where a licence has been issued on an exempt fee basis it will not be able to be transferred except to another person who is eligible for licence fee exemption.

Where a licence has been issued on a concessional fee basis it will not be able to be transferred except to another person who is eligible for licence fee concession or licence fee exemption.

It is important to be aware that a device authorised by the transferred licence is still required to operate under the same technical conditions (including transmission site) specified on that licence, unless a variation to the technical operating parameters is approved by the ACA.

Third Party Operation

Under section 114 of the Act, and subject to conditions specified in the Act, licensees may authorise, by written instrument, other persons to operate radiocommunications devices under the apparatus licence.

A person authorised to use a radiocommunications device under a third party authorisation is subject to all of the conditions applicable to that device under the licence.

Fees and Charges

Apparatus licence fees are designed to recover the ACA's costs in managing the radiofrequency spectrum and to provide a return to government for use of the spectrum resource. As well as including ACA costs, licence fees are set having regard to spectrum location, geographical location, amount of spectrum occupied and coverage area authorised by the licence.

The apparatus licence fee framework generally provides for a licence fee to comprise three components:

- a spectrum access tax (SAT);
- a spectrum maintenance component (SMC); and
- an administrative component.

Further details about these components are set out in the Apparatus Licence Fee Schedule.

LPON Services

As LPON services require the assignment of individual frequencies, the licence fee is calculated individually.

For a new licence

Annual SAT + SMC	refer to Table 1 of the Apparatus Licence Fee Schedule
plus	
New Issue Charge*	\$321.00

For a licence renewal

Annual SAT + SMC	refer to Table 1 of the Apparatus Licence Fee Schedule
plus	
Renewal/Instalment Charge*	\$9.00

*These charges form the administrative components of the fee.

SMC and SAT components of licence fees, for periods of other than a complete year, are calculated on a pro rata basis. For information about how to calculate licence fees (assigned and non assigned), including for licence periods of other than one year, see Examples of Licence Fee Calculations in the Apparatus Licence Fee Schedule.

Licence Fee Exemptions and Concessions

Individuals and organisations may be eligible for an exemption or concession from the payment of licence fees. For further information see Licence Fee Exemptions, Concessions and Discounts.

LPON Association

The Australian Subscription Television and Radio Association (ASTRA) represents LPON service licensees. The contact details of ASTRA are:

- telephone: (02) 9200 1486 ;
- facsimile: (02) 9200 1966; and
- e-mail: richardd@astra.org.au

Further Information

If you have any additional queries relating to the operation, or licensing, of LPON services, please contact any ACA Office.

If you have any queries relating to program content or broadcasting matters in general, please contact the ABA.

Attachment 1 - Planning Model for Low Power Open Narrowcasting (LPON)

Services

Frequency Range

The FM radio sub-band 87.5-88.0 MHz has been made available by the Australian Broadcasting Authority to accommodate LPON services.

Channels

The channels centred on the frequencies 87.6 MHz, 87.8 MHz and 88.0 MHz may be used for LPON services. The order of frequency assignment is 88.0 MHz first, 87.6 MHz second and 87.8 MHz third; co-channel and other frequency availability restrictions permitting.

Frequency Availability Restrictions

There are restrictions on the availability of all, or some, of the 87.5-88.0 MHz band in certain areas of Australia because of the potential for interference to the reception of broadcasting services.

Table 1 lists VHF television channel 3 transmitter locations and protection radii within which NO LPON services are to be assigned.

Table 1 - Television Broadcasting Services on VHF Television Channel 3

Television Transmitter Site	Area Served	Effective Radiated Power	Protection Radius (kilometres)
ABN3 - 3 km south of Nyngan, New South Wales (NSW)	Nyngan, NSW	10 watts	30
NBN3 - Mt Sugarloaf, NSW	Newcastle/Hunter River, NSW	100 kilowatts	150
NEN3 - Carpenters Hill, NSW	Glen Innes, NSW	10 watts	30
WIN3 - Bimmil Hill, NSW	Eden, NSW	50 watts	30
WIN3 - Buckeridge Lookout, NSW	Narooma, NSW	500 watts	50
WIN3 - Brokers Nose, NSW	Wollongong, NSW	5 kilowatts	50
ABTQ3 - Mt Stuart, Queensland (QLD)	Townsville, QLD	100 kilowatts	130
ABRS3 - 4 km west south west of Loxton, South Australia (SA)	Renmark/Loxton, SA	150 kilowatts	120
SSW3 - Mt Lennard, Western Australia (WA)	Bunbury, WA	50 kilowatts	150
VEW3 - Nareling Hill, WA	Baandee, WA	500 watts	50

VEW3 - Red Hill, WA	Kambalda, WA	10 watts	30
ABNT3 - Mt Barrow, Tasmania	North East Tasmania	300 kilowatts	130

Table 2 lists 88.1 MHz and 88.3 MHz FM radio broadcasting transmitter locations and protection radii. Protection requirements are:

- within the radii for 88.1 MHz transmitters, no LPON services are to be assigned;
- within the radii for 88.3 MHz transmitters, no 87.8 MHz or 88.0 MHz LPON services are to be assigned.

Table 2 - FM Broadcasting Services on 88.1 MHz and 88.3 MHz

Frequency (MHz)	FM Radio Transmitter Site	Area Covered	Effective Radiated Power	Protection Radius (kilometres)
88.1 MHz	2ABCFM - Khancoban, New South Wales (NSW)	Khancoban, NSW	18 watts	30
	2ABCFM - Talbingo, NSW	Talbingo, NSW	2 watts	10
	2RDJ - Burwood, NSW	Burwood, NSW	50 watts	50
	2RVR/T - 15.5 km north east of east Hay, NSW	Hay, NSW	3 kilowatts	100
	3ABCFM 1.5 km north of Bright, Victoria (VIC)	Bright, VIC	10 watts	30
	3ABCFM - Mt Clay, VIC	Portland, VIC	2 kilowatts	80
	3MFM - Mt Misery, VIC	Leongatha, VIC	1 kilowatts	80
	4HI - Blair Athol Mine, Queensland (QLD)	Blair Athol, QLD	100 watts	50
	8ABCRN - South Alligator, Northern Territory (NT)	South Alligator, NT	2 watts	10
88.3 MHz	2ABRCN - Mt Ulandra, NSW	South West Slopes, NSW	50 kilowatts	100
	3ABCFM - Hopetoun, VIC	Hopetoun, VIC	100 watts	30
	3SCB - Moorabbin, VIC	Southern South Melbourne, VIC	200 watts	30

LPON Services Frequency/Minimum Separation Distance Requirements

Co-channel and adjacent channel minimum separation requirements for LPON services are listed in Table 3.

Table 3 - Minimum Separation Distances Between LPON Transmitters

LPON Carrier Frequency Separation (kHz)	Required Protection Ratio in decibels (dB)	Separation Distance between 1 watt LPON services in kilometres (km)	Separation Distance between 10 watt LPON services (km)	Separation Distance between 1 watt and 10 watt LPON services (km)
0	45	10	30	20
200	27	5	15	10
400	-18	0	0	0

LPON Transmitter Technical Characteristics

Radiated Power

Location	Maximum mean radiated power - Effective Radiated Power
Rural *	ten watts (16.4 watts Equivalent Isotropic Radiated Power)
Residential *	one watt (1.64 watts Equivalent Isotropic Radiated Power)

* Rural locations are defined as being at least 20 km from the boundary of any residential area as determined from Australian Bureau of Statistics data for towns and cities. Other locations are residential.

Antenna

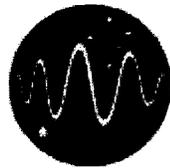
Type - Unspecified

Polarisation - Unspecified

Emission Designation

- 200KF8EHF for stereophonic or quadraphonic sound;
- 200KF3EGF monophonic sound.

APPENDIX E



Australian
Communications
Authority

**Hoarding of Licences for
Low Power Open Narrowcasting Services**

**Discussion Paper and
Invitation to Comment**

22 July 1999

1. The LPON Licence Hoarding Issue

For some time, industry and government have been expressing concern that many of the apparatus licences used to provide low power open narrowcasting (LPON) services are being held without the licensee providing a radio service. It has frequently been claimed that these licences are being hoarded with a view to later sale and, as a consequence, many parties who would like to provide a service are unable to do so. Hoarding of LPON licences may therefore be artificially restricting the choice and diversity of radio services available to the community.

On 11 June 1999, the Minister for Communications, Information Technology and the Arts, Senator the Hon. Richard Alston announced that he had asked the Australian Communications Authority (ACA), which administers LPON licences, to look at options to address the LPON licence hoarding issue. In particular, he asked the ACA to examine the possibility of applying a 'use it or lose it' condition to LPON licences. To aid its consideration of the issue, the ACA has prepared this discussion paper, and invites comment from interested parties on the matters raised. Particular subjects on which comments are sought have been highlighted in the paper, however comments on any other matter related to LPON licence hoarding are also welcome.

Any comments should be received by the ACA by close of business on Friday 20 August 1999, and should be directed to:

Ms Gillian Kempton
Manager, CAMT
Customer Services Group
Australian Communications Authority
PO Box 78
Belconnen ACT 2616

Ph (02) 6256 5429
Fax (02) 6256 5393
Email gkempton@aca.gov.au

A summary of comments received will be made available on the ACA's website. Please indicate if you wish comments to remain confidential (ie. not to be included in this summary).

2. Background to LPON Services

An LPON service is a type of FM radio service designed to provide narrowcasting programs to a limited area, typically with a radius of 2 km in residential areas and 5-10 km in rural areas. A narrowcasting service is distinguished from a mainstream broadcasting service by the requirement that reception be limited in some way (eg. by being targeted at a special interest group). Typical narrowcasting formats include tourist information, racing information, community information and niche music programming. LPON services generally operate on the frequencies 87.6, 87.8 or 88.0 MHz.

LPON services were introduced by the Australian Broadcasting Authority (ABA) in 1993 following the enactment of the *Broadcasting Services Act 1992*. It was intended that the availability of low-cost LPON licences, subject to less regulation than mainstream broadcasting licences, would encourage greater diversity of radio programming. Within a few years, the ABA had allocated approximately 1500 LPON licences, mainly to a handful of major applicants. Administration of LPON services

was transferred to the ACA in November 1996, by which time the available licences for most of Australia had been allocated. There are now approximately 1560 licences on issue.

Those licences issued by the ABA were issued without charge, as the ABA is generally unable to impose cost recovery charges, and were subject to a minimal annual licence fee (originally \$20, now \$34). Licences issued by the ACA are subject to a first year fee (including issue charge) of \$346 and an annual fee in subsequent years of \$34.

Output power for LPON services is limited to 1 watt effective radiated power (ERP) in residential areas and 10 watts ERP in rural areas. In addition to the maximum ERP, LPON licences are also limited to a maximum field strength at a certain distance from the transmitting antenna. This allows the same channel to be reused every 10 km in residential areas and every 30 km in rural areas. To comply with the field strength limit, it is often necessary for LPON operators to transmit with a power below the maximum permitted, or to lower the transmitting antenna.

Over the last four years, many LPON operators have increasingly moved away from the information service format. LPON services are becoming more like commercial broadcasting services in character, and ACA field audits indicate that a large number of services are exceeding the maximum allowable field strength. As a result of complaints regarding the program format of certain LPON services, the ABA has recently issued several notices requiring LPON operators to cease providing unlicensed commercial radio broadcasting services.

The low cost of obtaining and holding LPON licences, the limited number of LPON frequencies available in an area and the high demand for FM radio services may have encouraged the hoarding of licences, particularly as licences obtained from the ABA/ACA may be on sold on the 'secondary market'. The success of some LPON operators with quasi-commercial formats may have further increased the secondary market value of licences.

In addition to LPON services, there are also approximately 160 high power open narrowcasting (HPON) services, which operate in both the AM and FM radio bands. However, while subject to the same content restrictions as LPON services, HPON services are wide-coverage services planned through the ABA's licence area planning process, and are subject to a price-based allocation, with a typical reserve price of \$4000 a licence.

3. Current LPON Licence Hoarding Situation

From the early days of LPON licensing, a small number of licensees have held numerous licences across the country. Currently, while there are more than 200 LPON licensees, 10 of these licensees hold over 50% of the licences. There is a view in the community that several of these large holders submitted numerous applications in an attempt to lock up the market for LPON licences, with little or no intention of using the majority of licences themselves.

ACA field audits indicate that approximately 65% of LPON licences are not being used to provide a service, which would tend to lend support to this view. In addition, the ACA receives regular representations from small, aspirant community information operators and other parties aggrieved at the non-availability of channels in their areas who request that the larger operators be prevented from hoarding licences. The ACA understands that the Minister for Communications, Information Technology and the Arts has also received representations on this issue. In a number of cases, it has been alleged that licences have been deliberately acquired to prevent a genuine aspirant from obtaining a licence to commence a service.

The present administrative arrangements contain no mechanism to address the hoarding of licences. Part of the difficulty is that the low cost of holding LPON licences means there is little incentive for hoarders to either make use of or sell their licences. Whilst hoarders may be willing to sell or lease licences for a price, most aspirant narrowcasters claim that the prices asked are beyond their reach. The ACA understands that the going rate for licences in regional Australia is around \$5000 a licence, with tens of thousands of dollars being sought in major centres. This compares with a first year charge of \$346 to obtain a licence from the ACA.

Comment is invited on the extent of hoarding of LPON licences; and to what degree this hoarding may have impeded the introduction of new services.

4. Options relating to LPON Licence Hoarding

The following list contains what the ACA believes to be the four main options relating to LPON licence hoarding. This list is not necessarily exhaustive, and interested parties are welcome to suggest alternative approaches.

a) Retain the current LPON licensing arrangements

This option would cause the least amount of disruption and dissatisfaction to existing licensees, would maintain the current 'light touch' regulatory environment and would involve the commitment of no extra public resources.

However, FM radio frequencies are a scarce public resource, and if access to these frequencies is being misused, then a strong case exists for regulatory intervention. Such intervention would support the Government's stated objective of encouraging choice and diversity of radio services. There appears to be little possibility that occurrences of hoarding will lessen without ACA intervention.

Comment is invited on whether the problems created by the hoarding of LPON licences are such as to justify regulatory intervention, or whether current 'light touch' arrangements should remain in place.

b) Impose a condition on LPON licences to require licensees to commence operation within a specific time period

Such a condition is generally known as a 'use it or lose it' condition, and is already applied in some form to most other FM radio services. Under this condition, if an LPON licensee did not commence operation within a specified period (eg six months) and continue operation thereafter, the ACA could cancel or refuse to renew the licence on the grounds of a breach of the licence condition. The ACA anticipates that enforcement of such a condition would be on a complaints basis (ie. the ACA would only act if a prospective operator complained of the inability to obtain a licence because of a non-operational LPON licence being issued in the proposed area of operation).

A potential complication with this approach is that there is no generally accepted meaning of what a service actually is and, in the absence of any legislative or other criteria, there could be some difficulty in establishing whether or not a service had commenced. In an extreme case, a licensee could switch on a mobile transmitter for a short period, and claim to have commenced a service as required by the licence condition. So, while the condition need not necessarily specify a full-time service, there clearly would need to be some criteria in order for it to be effective.

One way of addressing this issue would be to specify in advance the factors that the ACA would take into account when determining whether a service was being provided. Such factors could include:

- permanent location of a transmitter and antenna at the licensed site;
- evidence of site acquisition or site rental;
- evidence of power supply connection or power use at the site;
- program schedules;
- advertising contracts;
- agreements or contracts with program providers;
- tapes of broadcast material;
- evidence from listeners in the service area of the licence; and
- results of monitoring by the ACA.

In addition, consideration would need to be given to the situation where more than one party in an area was interested in an LPON licence, and the ACA needed to decide which party to allocate a licence to after the cancellation or non-renewal of an existing non-operational licence. Possible approaches to this situation could include 'first come, first served', price-based allocation, or some form of merit-based selection. As some licensees may seek to transfer LPON licences to circumvent the licence condition, the ACA may also need to restrict the transfer of LPON licences.

Properly implemented, it seems likely that a 'use it or lose it' condition would be a strong deterrent to the hoarding of LPON licences. The ACA recognises that the condition may be considered an imposition by some existing licensees, who have generally held LPON licences for several years without it, and that the condition and related measures would require significant administrative resources to implement. Against this must be weighed the public benefit of new radio services that the

introduction of this condition may bring, and the fact that the condition would not disadvantage genuine operators.

Comment is invited on how effective and appropriate a 'use it or lose it' condition would be in addressing the hoarding of LPON licences; what period should be allowed for licensees to establish a service; whether the ACA should have the discretion to extend this period on application from the licensee; what criteria should be used to establish whether a service was being provided; how competing applications for cancelled licences should be treated; and whether there should also be restrictions on the transfer of LPON licences.

c) Increase LPON licence fees

There is currently no financial incentive for LPON licensees to either operate a service or dispose of (surrender or transfer) licences. The vast majority of licences were issued by the ABA without charge, and have been subject to the minimum annual licence fee, currently \$34.

It is arguable that increasing the annual licence fee would provide a strong discouragement to the hoarding of LPON licences, although the increase would probably need to be substantial to provide an effective market signal. This option could also potentially be used to complement the approach in option b.

An increase in LPON licence fees would be easy to implement and potentially quite effectual, but could cause disquiet among existing licensees, some of whom (eg. community groups) may find it difficult to pay substantially increased fees.

Comment is invited on the appropriate fee level for LPON licences; and specifically whether an increase in licence fees would be justified as a deterrent to the hoarding of LPON licences.

d) Replace individual LPON licences with a class licence

A class licence is a general authorisation allowing any person to provide a certain type of radio transmission without holding an individual licence. Examples of existing class licences are CB radios and certain handheld 'walkie-talkies'. An LPON class licence would permit a prospective LPON operator to transmit from any location providing that the standard LPON technical conditions were met. After a certain specified period, all existing individual LPON licences would not be renewed. With no more individual licences, there would be nothing for people to hoard, and so no hoarding issue.

Operation under a class licence would, however, be on a 'no protection' basis, which may not provide a sufficient guarantee of interference-free reception for many operators. It is also possible that the ACA would become involved in many disputes over whether a particular operation was within allowable parameters. In addition, the Commonwealth would obtain no revenue from these services without individual licensing.

A possible compromise approach would be to retain individual licensing in major centres, and introduce class licensing for other areas. This would be to the advantage of the people in towns where there are only a few prospective operators, but where

these are unable to commence operation because of the existence of non-operational licences.

Comment is invited on the appropriateness of replacing individual LPON licensing with an LPON class licence, either Australia-wide or outside major centres; and the extent to which operation would be feasible under a 'no protection' regime.

5. Conclusion

There is considerable evidence that some current LPON licensees are holding large numbers of licences with no apparent intention of using them to provide a service. These licensees may be preventing genuine aspirant LPON operators from providing community information services and other programming. There may therefore be a case for the ACA to intervene to ensure access to LPON frequencies for genuine operators.

Three possible courses of action are: to impose a condition on LPON licences requiring licensees to commence operation; to increase LPON licence fees; or replace individual LPON licences with a class licence. Each of these options has different implications for existing licensees, prospective operators and government. In deciding on the most appropriate course of action, the ACA will seek to maximise the opportunities for prospective operators, while minimising the disruption to existing operators and containing the commitment of regulatory resources.

CERTIFICATE OF SERVICE

I, Angela Barber, Legal Secretary for the National Association of Broadcasters, hereby certifies that a true and correct copy of the foregoing Comments of the National Association of Broadcasters was sent this 15 day of November, 1999, by first-class mail, postage prepaid, to the following:

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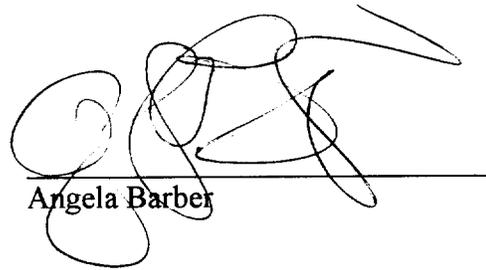
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