

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of the)	MM Docket No. 99-25
)	
Creation of a Low Power)	RM-9208
)	
FM Radio Service)	RM-9242
)	
)	Report and Order FCC 00-19

**Petition for Reconsideration
of Report and Order FCC 00-19**

After the Commission issued its Notice of Proposed Rulemaking 99-25, the petitioner filed comments and reply comments. The petitioner believes that the Commission has done a good thing in creating the Low Power FM (LPFM) Radio Service through its Report and Order (R&O) FCC 00-19. However, he believes the R&O is overly restrictive. But another has addressed some of his concerns.¹ Dr. Bowles' petition for reconsideration addresses a problem area that is not the subject of any other petition for reconsideration available at the time his petition was written.

One goal that the Commission had in creating the LPFM Radio Service was to increase the amount of local programming that is available to localized audiences.² For example, large Full Power regional stations in urban areas do not adequately cover high school and small college sports, city council meetings, local church events, and so forth. The R&O also states: "Another goal expressed in the *Notice* was that any new LPFM service specifically include the voices of community based schools, churches and civic organizations." However, in defining what qualifies as local programming, the Commission has inadvertently discouraged the production of some essential categories of local programming.

Concerning the point system to solve the problem of mutually exclusive applications, the R&O requires: ". . . applications that pledge to originate locally at least eight hours of programming per day will be assigned one point. For purposes of this criterion, local origination will be defined as the production of

¹ Petition for Reconsideration, J. Rodger Skinner, Jr., February 19, 2000. Dr. Bowles endorses Mr. Skinner's Item "b)," p. 8.

² Report and Order FCC 00-19, paragraph 4.

programming within 10 miles of the reference coordinates of the proposed transmitting antenna.”³

In areas of dense population, large Full Power regional stations have to ignore the needs of the local communities due to time and other restraints. Areas of dense population are also the areas where the number of available channels will be smallest. Therefore, the competition for LPFM stations will be greatest and the number of mutually exclusive applications will be high in urban areas. It will be necessary in such a context for a successful applicant to agree to the 8 hours per day of locally originated programming criterion.

The production of local programming is generally accepted to be more expensive than the utilization of mass-produced programming delivered via satellite and other media. The Commission has restricted the income of LPFM stations by not authorizing LP1000 stations,⁴ by not authorizing commercial stations,⁵ and by not authorizing LP100 stations running 100 watts effective radiated power with antennas above 30 meters.⁶ Most LPFM stations will not have the financial luxury of producing one set of local programs that meet the local origination criteria and another set of local programs that does not meet the criteria.

Given the quandary of producing local programming that meets the origination location standard versus more important local programming that does not meet the criterion, the latter will fall before the former. Therefore, the production of programs that have strong, unmet, local importance to an audience may be thwarted by the definition of “locally originated programming.”

The following are concrete examples of the problem:

- The R&O will encourage the broadcast of the local high school and college athletic events at their home courts (i.e., within the 10-mile circle), but will discourage the broadcast of games with local participants at the courts of their opposition (i.e., outside the 10-mile circle)! Given the choice of broadcasting two-hours of music that can be part of the 8-hour requirement versus two hours of a broadcast of an “away” basketball game that cannot be used to help fill the requirement, the station will be forced to broadcast the former over the latter.
- The R&O will encourage the broadcast of a live, local church service (i.e., one from a church located within the 10-mile circle). However, if the church (inside the 10-mile circle) decides to contract with a third

³ Ibid., paragraph 144.

⁴ Ibid., paragraph 11.

⁵ Ibid., paragraph 17.

⁶ Ibid., paragraph 13.

party (outside the 10-mile circle) to produce an edited version of the service adapted for radio broadcast, the time devoted to the broadcast could not be used to meet the local origination rule. This would be true even though the edited version were superior to the live version!

- Probably the greatest audiences listening to programs produced by the petitioner have been those listening to live broadcasts of Promise Keeper (PK) events. These events are for men (who live within the 10-mile radius) but their families at home (within the 10-mile radius) are also desperate to hear the ministry (involving teachings important to those within the 10-mile radius). If the venue of the PK event were 11 miles away at the area's National Football League stadium, the expensive to produce, approximately 18-hour events would not qualify to meet the local origination criteria.
- Consider the situation in which a local issue is to be decided by state legislators. Local citizens who reside within the 10-mile circle rent a dozen buses to transport them to the state capital (outside the 10-mile circle). A broadcast or news report of the rally produced at the capital would not qualify to help meet the local origination criteria even though it includes local participants and local issues.

One purpose of LPFM radio stations is to provide programming of special interest to localized audiences. However, the Commission has inadvertently substituted "locally originated programming (within a 10 mile radius)" for "programming of special interest to localized audiences." The Commission's action will limit the ability of LPFM stations to fill the void left by Full Power stations in urban areas.

The petitioner requests that the Commission change 73.872(b)(3)⁷ to read: "Local programming. The applicant must pledge to broadcast at least eight hours of local programming per day. For purposes of this criterion local is defined as an area within 10 miles of the coordinates of the proposed transmitting antenna. To qualify as local programming, the programming must cover local persons and/or their activities and/or local issues and/or be originated in the local area."

Thank you for your consideration.



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⁷ Ibid., page 98.

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