Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

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

COMMENTS OF
PROMETHEUS RADIO PROJECT
NATIONAL FEDERATION OF COMMUNITY BROADCASTERS
OFFICE OF COMMUNICATION, UNITED CHURCH OF CHRIST, INC.
FREE PRESS
COMMON CAUSE
CENTER FOR CREATIVE VOICES IN MEDIA
THE U.S. PUBLIC INTEREST RESEARCH GROUP
CENTER FOR DIGITAL DEMOCRACY
CCTV CENTER FOR MEDIA & DEMOCRACY
MEDIA ALLIANCE
BENTON FOUNDATION
RECLAIM THE MEDIA
THE CENTER ON DEMOCRATIC COMMUNICATIONS
NEW MEXICO MEDIA LITERACY PROJECT
MEDIA DEMOCRACY CHIGACO
CITIZENS FOR INDEPENDENT PUBLIC BROADCASTING
NEW AMERICA FOUNDATION
STUDENTS CONCERNED ABOUT MASS MEDIA
THE PEOPLE'S CHANNEL
NATIONAL HISPANIC MEDIA COALITION
PORTSMOUTH COMMUNITY RADIO-WSCA
RADIO FREE MOSCOW-KRFP
VALLEY FREE RADIO-WXOJ
KDRT
RICHMOND VA GREENS PARTY
HAWAII CONSUMERS
THINKING OUT LOUD
AND
THE FUTURE OF MUSIC COALITION

Law Student Interns:
Jennifer Scher
Southwestern University School of Law

Amy Vanderlyke
Syracuse University College of Law

Harold Feld
Andrew Jay Schwartzman
Media Access Project
Suite 1000
1625 K Street, NW
Washington, DC 20006

(202) 232-4300

August 24, 2005

TABLE OF CONTENTS

SUMMARY…… .iv

INTRODUCTION…….. .1

I. LPFM APPLICANTS SHOULD BE PERMITTED TO UTILIZE THE CONTOUR OVERLAP INTERFERENCE METHODOLOGY IN THE PUBLIC INTEREST OF DISPERSING THE LIMITED LPFM SPECTRUM AVAILABLE…….. 2

A. The Commission Has the Authority to Adopt a Contour Methodology to License LPFM Stations……..……3

1. Agency Discretion is Not Automatically Frozen by Congressional Action…….. 4

2. Statutory Language of Section 632 Does Not Prevent the Commission From Enacting a Contour Overlap Methodology……6

B. Policy Considerations Weigh in Favor of Adopting a Contour Overlap Methodology to Licensing LPFM Stations……..8

II. LPFM STATIONS SHOULD BE PROTECTED FROM ENCROACHMENT BY FULL POWER STATIONS……..12

A. A Rule Protecting LPFM Stations From Encroachment By Full Power Stations Should Be Adopted……..13

B. Alternatively, A Processing Guideline, Which Presumes Elimination or Serious Degradation Of An LPFM Station Area Caused By Grant Of A Full Power License Application Is Not In The Public Interest, Should Be Adopted…….. 14

C. LPFM Stations Should Be Given The Opportunity To Make Major Engineering Changes When Encroached Upon By A Full

Power Station…..…….16

III. LOCAL ELIGIBILITY RESTRICTIONS ENSURE LOCAL SERVICE AND UPHOLD THE LOCALISM GOALS OF THE LPFM SERVICE, THEREFORE LPFM OWNERSHIP SHOULD BE LIMITED TO LOCAL ENTITIES……..…. 17

A. Local Origination Must Be Clearly Defined……..17

B. Local Eligibility Requirements Must Remain Effect and Non-Waivable……...18

C. The Ten (10) Mile Requirement Should Be Extended To Twenty (20) Miles For LPFM Stations Outside Of The Top Fifty (50) Urban Markets…….. 19

IV. MULTIPLE OWNERSHIP OF LPFM LICENSES SHOULD BE PROHIBITED OR, IN THE ALTERNATIVE SIGNIFICANTLY LIMITED…..……...19

V. LIMITS ON THE TRANSFERABILTY OF LPFM LICENSES SHOULD EXIST IN ORDER TO PROTECT FROM SPECULATIVE FILING AND OTHER ABUSES OF THE COMMISSION'S RULES……....21

A. LPFM License Holders Should Not Receive Consideration In Exchange For Transfers or Assignments……21

B. Construction Permits Should Not Be Transferable……21

C. A Holding Period Restriction Should Limit the Transfer of Licenses…….. 22

VI. COMMISSION RULES SHOULD PERMIT THE TRANSFER OF CONTROL OF AN LPFM LICENSEE IN THE CASE OF A SUDDEN CHANGE IN THE MAJORITY OF THE GOVERNING BOARD…….22

VII. LPFM APPLICATION WINDOWS SHOULD OPEN AT REGULAR INTERVALS, AT LEAST EVERY TWO (2) YEARS……24

VIII. LPFM CONSTRUCTION PERMITS SHOULD BE EIGHTEEN (18) MONTHS IN DURATION, WITH AN AUTOMATIC EXTENSION OF AN ADDITIONAL EIGHTEEN (18) MONTHS UPON REASONABLE REQUEST…….. 25

CONCLUSION…….. 27

APPENDIX A – PROMETHEUS RADIO PROJECT, *ET AL.*

APPENDIX B- PROPOSAL OF PROMETHEUS RADIO PROJECT, NATIONAL LAWYERS GUILD, WSCA-LP, KRFP-LP, COMMON CAUSE, RICHMOND GREENS/GREEN PARTY, AND HAWAII CONSUMERS REGARDING RELATIVE SPECTRUM PRIORITY OF LPFMS AND TRANSLATORS

A. Only Local Applicants Should Be Able To Apply For Translators Or LPFMs

B. Current Translator Licenses Should Not Receive Grandfathered Protection Rights And All Pending Translator

C. Applications Should Be Thoroughly Reviewed For Speculative Filing

D. LPFM and Translator Applicants That Meet The Standards of Local Origination and Local Eligibility Should Have Primary Status

E. To Determine Spectrum Priority, The Commission Should Distinguish Between Translator Classes

F. No Entity Should Own More Than Twenty (20) Translator Licenses, and No Full Power Station's Signal Shall Be Repeated More Than Twenty (20) Times.

APPENDIX C- PROPOSAL FROM THE NATIONAL FEDERATION OF COMMUNITY BROADCASTERS AND OFFICE OF COMMUNICATION OF

SUMMARY

These comments are filed on behalf of a coalition of low power applicants, permittees and licensees, full power non-commercial broadcasters, and national and local citizens groups representing low power advocates, users and listeners.

The Commission has a duty, not only to protect the LPFM service, but to create new opportunities for the LPFM service. The best method the Commission has for protecting and creating opportunities for the LPFM service is to adopt a more sophisticated methodology for interference avoidance. Thus, the coalition maintains that LPFM applicants should be permitted to utilize the contour overlap interference methodology in the public interest of dispersing the limited LPFM spectrum available. In particular, they argue that the Commission has full discretion to employ a contour method for LPFM, and that Section 632 of the Act is wholly consistent with this view.

Perhaps the greatest threat to the future of LPFM is the Commission's all-too casual approach to the so-called "encroachment issue. Full power licensees are free to attack nearby LPFM stations through an amendment process which is at this time unavailable to LPFM stations, leaving them helpless to deal with a process that is fatal to them. The Commission should implement policies that generally discourage full power stations from moving out of their original community of license or expanding into an LPFM community of license. Allowing a full power station to change its community of license so easily encourages station owners to move away from the

communities that were intended to benefit from the full power service and shuts off a valuable source of programming in the encroached upon LPFM station. If the Commission is unwilling to give LPFMs the primary status they deserve, it should, at the least, administer encroachment cases at the full Commission level and adopt a processing guideline which allows consideration of the public interest effect of encroachment. Stations facing encroachment should also be allowed to make major engineering changes to address the circumstances causing their potential disempowerment.

The key policy concept that should guide the Commission through this rulemaking is strengthening the Commission's definition, analysis, and utilization of local origination pledges in making decisions regarding the allocation of scarce spectrum available for Low Power FM stations. Additionally, the Commission must ensure the LPFM goal of localism by providing strong local eligibility requirements. To achieve these goals, the Commission should better define local origination, strictly enforce local eligibility requirements and extend applicants' 10 mile distance limitation to 20 miles.

The Commission should retain its restriction on multiple ownership of LPFM licenses. If it is disposed to change this highly valuable restriction, it should, at the least, make plain that multiple owners are not entitled to a renewal expectancy.

The Commission will cripple LPFM if it eases limits on transferability of construction permits. Consideration for LPFM transfers should not be

allowed. There should in any event be a three year holding period on all license transfers to deter abuses.

The problem of determining how to deal with changes in the governing board of a non-commercial licensee is not unique to LPFM. The Commission must address this question and, in particular, develop mechanisms to address emergencies which lead to sudden changes in board composition.

The LPFM service will be at once facilitated and stabilized if the Commission were to begin to open LPFM windows at regular two year intervals. The commenters strongly urge this be done. Another important simplification would be to afford 18 months for construction of LPFM, and to allow one additional 18 month period upon good cause shown.

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of:	)	
	)	
	)	**MM Docket No. 99-25**
Creation of a Low	)	
Power Radio Service	)	

COMMENTS OF CITIZEN COMMENTERS

INTRODUCTION

Prometheus Radio Project, *et al.* (listed on the cover and further identified in Attachment A hereto) referred to herein as "Citizen Commenters," respectfully submit these comments with respect to the *Second Order on Reconsideration and Further Notice of Proposed Rulemaking in the matter of Creation of a Low Power Radio Service*. *Creation of a Low Power Radio Service*, 20 FCC Rcd 6763 (2005) ("*FNPRM*"). The comments presented here represent points of agreement between these groups regarding the Commission's plans for the Low Power FM service.[1]

We would like to take this opportunity to thank the Commission, as well as the Commission Staff, for its work and attention in this matter, and for the support already given to the Low Power FM service.

The Low Power Radio Service has been a resounding success, where it has been allowed. No initiative of the FCC in the past five years has done as much to

[1] With regard to certain specific proposals that address translator/LPFM priority, Prometheus Radio Project, National Lawyers Guild, WSCA-LP, KRFP-LP, Radio Free Moscow, Common Cause, Richmond Greens/Green Party, and Hawaii Consumers separately submit the proposal in Attachment B and do not endorse Attachment C. The National Federation of Community Broadcasters and the Office of Communication of the United Church of Christ, Inc. explicitly do not endorse the proposal in Appendix B and instead endorse the proposal of REC NETWORKS as set forth in Appendix C. All other parties express no opinion on either Appendix B or Appendix C.

contribute towards the promotion of localism, and few actions by the FCC have generated as much enthusiasm among citizens. In these comments, we advocate a set of actions that can expand and enhance low power radio.

I. LPFM APPLICANTS SHOULD BE PERMITTED TO UTILIZE THE CONTOUR OVERLAP INTERFERENCE METHODOLOGY IN THE PUBLIC INTEREST OF DISPERSING THE LIMITED LPFM SPECTRUM AVAILABLE.

The Commission has a duty, not only to protect the LPFM service, but also to create new opportunities for the LPFM service. The best method the Commission has for protecting and creating opportunities for the LPFM service is to adopt a more sophisticated methodology for interference avoidance. In the *FNPRM,* the Commission tentatively concluded that it is statutorily barred from adopting a contour overlap interference methodology. Additionally, the Commission tentatively concluded that even if it were not barred from adopting a contour overlap interference methodology, it would continue to license Low Power FM ("LPFM") stations under a minimum distance separation approach due to policy considerations of reliability, cost, time, and burden. *FNPRM* at ¶ 34-35.

The Commission erred in its tentative conclusions. First, the Commission does have the statutory authority to adopt a contour overlap interference methodology. Congress never intended to freeze the methodology used by the Commission or the Commission's discretion. In fact, the language and legislative history indicates that Congress' only concern was to protect the public from harmful interference. In all other respects, Congress intended the Commission to foster and

support the LPFM service. Therefore, the Commission is not statutorily barred from adopting a contour overlap methodology. Moreover, policy considerations and the public interest standard weigh in favor of adopting a contour overlap interference methodology in conjunction with the current minimum distance separation requirements.

A. The Commission Has the Authority to Adopt a Contour Methodology to License LPFM Stations.

The Commission has thus far denied LPFM advocates' request that the Commission adopt more flexible technical licensing rules, which would allow LPFM applicants to use a contour overlap interference protection methodology, instead of the burdensome minimum distance requirements. The Commission has tentatively concluded that Congress statutorily barred use of a contour overlap methodology because Congress mandated the use of minimum distance separations. *FNPRM*, ¶ 34.[2] The Commission's interpretation and application of the *2001 D.C.*

[2] The Commission based this argument on the *2001 D.C. Appropriations Act*, in which Congress mandates that the Federal Communications Commission modify its LPFM rules. *2001 D.C. Appropriations Act*, Pub. L. No. 106-553, 114 Stat. 2762, Appendix B, § 632 (2000) ("*2001 D.C. Appropriations Act*"). The Act directed the Commission to modify its rules to "prescribe minimum distance separations for third-adjacent channels." *2001 D.C. Appropriations Act* at § 632(a)(1)(A). Additionally, the Act barred the FCC from eliminating or reducing "the minimum distance separations for third-adjacent channels" and required the Commission to prepare a report including any recommendations to Congress to reduce or eliminate minimum distance separations. *2001 D.C. Appropriations Act* at §§ 632(a)(2)(A), 632(b).

Appropriations Act, which it used to determine that "adoption of a contour overlap approach is statutorily barred," is inherently flawed. Adoption of Section 632 does ***not*** freeze the Commission's discretion, nor does the language of Section 632 statutorily preclude use of a more accurate method for interference protection. Contour overlap, Longley-Rice and other methodologies are, in fact, more accurate in predicting actual interference and capturing the full value of the spectrum.

While minimum distance methodology takes into account only the raw distance between transmitters, other methods take into account terrain obstruction, climate, soil conductivity and other factors that tell us more about the actual behavior of radio signals. In a previous era, calculations of this kind, *i.e.*, with more factors taken into account were more complicated to perform. Due to modern computer software that the Commission already possesses and uses to allocate frequencies for other FM radio stations, it is now easier, if anything, to use extremely accurate methods than it is to use the "rough cut" minimum distance spacing method. The failure to employ these superior methodologies for the purported purpose of administrative convenience needlessly undermines the commission's mandate to make the most efficient possible use of the electromagnetic spectrum, and therefore would be arbitrary and capricious.

1. Agency Discretion is Not Automatically Frozen by Congressional Action

The Commission erred when it tentatively concluded that, because Congress "mandated the use of a distance separation methodology to protect FM stations from LPFM station interference," it is statutorily barred from adopting any

additional or alternative methodology to protect FM stations from LPFM station interference. *FNPRM* at ¶ 34. The Commission's proposed interpretation of Section 632 implies that, by enacting Section 632, Congress effectively froze the Commission's discretion. Contrary to the Commission's previous determinations, the Commission has in the past clearly concluded that it does not consider its discretion frozen by the enactment of Congressional statutory language. In 2001, the Commission found that "in the absence of any indication by Congress" that the statute locked in the Commission's interpretation, the Commission was free to exercise its discretion in interpreting the language. *In re Ancillary or Supplemental Use of Digital Television Capacity by Noncommercial Licenses*, 16 FCC Rcd 19,042, 19,053-54 & n.60 (2001) ("*2001 Order*"). The FCC's action there was consistent with case law.[3] Therefore, to prove that the Commission's discretion is frozen and is thus

[3] The US Supreme Court, in several decisions, stated that an agencies' discretion is not automatically frozen when Congress enacts legislation. *Lukhard v. Reed*, 481 U.S. 368, 379 (1987) ("It is of course not true that whenever Congress enacts legislation using a word that has a given administrative interpretation it means to freeze that administrative interpretation in place'); *Helvering v. Wilshire Oil Co.*, 308 U.S. 90, 100-101 (1939) (Preventing an administrative agency from amending its interpretation because of Congressional action would "drastically curtail the scope and materially impair the flexibility of administrative action."). Specifically in relation to the Federal Communications Commission, the D.C. Court of Appeals found that "in the absence of any indication by Congress" that the statute locked a particular interpretation in place or froze the Commission's discretion, the Commission is free to rely on its own interpretation. *Office of Communication, Inc. of the United Church of Christ, et al.* v. FCC, 327 F.3d 1222, 1225 (D.C. Cir. 2003). Finally, several courts found that to freeze agency discretion or interpretation, Congress must clearly indicate its intention to do so. *American Federation of Labor and Congress of Industrial Organizations v. Brock*, 835 F.2d 912, 916 & n.6 (D.C. Cir. 1987) ("To freeze an agency interpretation, Congress must give a strong affirmative indication that it wishes the present interpretation to remain in place"); *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1312 (Fed. Cir. 2001)

unable to enact a contour overlap methodology, the Commission must now show a strong indication by Congress that it intended to freeze the Commission's discretion by enacting Section 632.

To find a strong indication of intent by Congress, we must examine the legislative history and the language of the legislation. In the present case, the language of Section 632 does ***not*** strongly indicate a Congressional intention to freeze the Commission's discretion. Although Congress specifically requires modification of the rules authorizing operation of LPFM radio stations and limits the Commission from certain actions, including eliminating or reducing the minimum distance separations required by Section 632(a)(1), the statute does not bar the Commission from exercising its discretion. In fact, the statute specifically recognizes the value of the Commission's interpretation, since it requires an analysis and recommendation from the Commission.

The language of Section 632 clearly shows that when Congress enacted Section 632 its one goal was to prevent harmful interference pending the outcome of the congressionally mandated engineering report and the Commission's report thereupon. It is noteworthy in this regard that the language of Section 632,

---

("Any assumption that Congress intended to freeze an administrative interpretation of a statute, which was unknown to Congress, would be entirely contrary to the concept of *Chevron*--which assumes and approves the ability of administrative agencies to change their interpretation"); *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, et al.*, 457 U.S. 834, 843 (1984) (citing *Morton v. Ruiz*, 415 U.S. 199, 231 (1974)) ("The power of an administrative agency to administer a congressionally created ... program necessarily requires the formulation of policy and the making of rules to fill any gap left, implicitly or explicitly, by Congress.")

requiring the Commission to perform a study, focuses on channel spacing and not on methodology.

Applying the Commission's traditional analysis of statutory language and legislative history to Section 632 makes clear that Congress never intended to freeze the Commission's ability to implement interference methodology. Since Congress did not explicitly freeze agency discretion or interpretation when enacting Section 632, the Commission is free to exercise its discretion and has the authority to enact a contour overlap methodology.

2. Statutory Language of Section 632 Does Not Prevent the Commission From Enacting a Contour Overlap Methodology

Under Section 632(a)(1)(A) the FCC must modify its rules to prescribe minimum distance separations. *2001 D.C. Appropriations Act* at Appendix B, § 632(a)(1)(A). However, the Act does not specify the exact numerical distance to use in modifying the Commission's rules. As a result, the Commission is given discretion in implementing these requirements.

Under Section 632(a)(2)(A) the Commission may not "eliminate or reduce the minimum distance separations for third-adjacent channels required by paragraph (1) (A)." *2001 D.C. Appropriations Act* at Appendix B, § 632(a)(2)(A). Thus, while the Act bars the Commission from eliminating or reducing the minimum distance separations, it does not in any way bar implementation of additional and more accurate interference valuation methods.

The Act neither mandates the specific method of application, nor the existence of additional or alternate methods for evaluating interference. *2001 D.C. Appropriations Act* at Appendix B, § 632(a); *Second Order* at ¶ 35.

The Act also requires that the Commission conduct a program to test the effect of eliminating and/or reducing the minimum distance separations on existing FM radio stations. Primarily, the test is to focus on whether there is harmful interference from the LPFM stations as a result of eliminating or reducing the minimum distance separations. *2001 D.C. Appropriations Act* at Appendix B, § 632(b)(1). By giving the Commission authority to conduct a test to determine the effect and validity of the minimum distance separations, Congress recognized that LPFM "harmful interference" may be fictitional, minimum distance methodology may be overly burdensome and that alternative or additional methods of testing for interference may be necessary.

Additionally, the Act requires that the Commission provide a detailed report on the effect of the waiver of minimum distance separations, including an impact evaluation, recommendations to reduce or eliminate the minimum distance separations and any additional appropriate information and recommendations. *2001 D.C. Appropriations Act* at Appendix B, §632(b)(2). The Commission submitted the required report to Congress recommending that Congress modify the statute to eliminate the minimum distance separations requirements for LPFM stations. *Report to Congress on the Low Power FM Interference Testing Program*, Pub. L. No. 10-553 (rel. Feb. 19, 2004) ("Report to Congress").

By reference to the testing and recommendations required by the Act, Section 632 is simply a temporary solution to deal with the concerns of possible LPFM interference. With the completion of testing and five years of experience with LPFM, the weight of Section 632 has diminished, primarily because of the results of the Mitre study, the Commission's recommendation to eliminate minimum distance separations and because of the possibility of using alternative methods for testing and eliminating possible interference caused by LPFM stations.

Although the Commission is statutorily required to include a minimum distance separation requirement for LPFM stations, this requirement does not bar the Commission from exercising its agency discretion in interpreting the Act and enacting additional and alternative methods of testing LPFM interference. As a result, contrary to its tentative findings in the *FNPRM*, the Commission is not statutorily barred from adopting a contour overlap or Longley-Rice approach to protect full power stations from LPFM station interference and the Commission has the authority to adopt an alternative method.

B. Policy Considerations Weigh in Favor of Adopting a Contour Overlap Methodology to Licensing LPFM Stations

In the *FNPRM*, the Commission acted prematurely by tentatively concluding that "significant policy considerations weigh in favor of continuing to license LPFM stations in accordance with the minimum distance separation methodology." *FNPRM* at ¶ 35. Originally, the Commission adopted minimum distance separation requirements for LPFM stations as part of a plan to protect full power FM stations from interference from new LPFM stations. *Creation of a Low Power Radio Service*,

15 FCC Rcd 2205, 2233 (2000) ("*Report and Order*"). In the *Report and Order*, the Commission proposed minimum distance separation requirements for LPFM stations as "the most efficient means to process a large number of applications while ensuring the overall technical integrity of the FM service." *Report and Order* at 2232. The Commission's reasoning for adopting minimum distance separation requirements instead of a contour overlap methodology was a fear of significant delay in the implementation of the LPFM service because of the required "substantial preparation on the part of the applicants and the Commission" and because of the increased "processing burden" on the Commission's staff. *Report and Order* at 2232.

First, the Commission errs by tentatively concluding that a contour overlap methodology is not simple or reliable enough to be appropriate for the LPFM service. *FNPRM* at ¶ 35. The Commission successfully uses a contour overlap methodology for processing translator licenses, and was able to process thousands of translator applications. Use of a contour overlap method will not be much harder to implement or use than the channel spacing methodology currently in place because the Commission already has experience with contour overlap methodology and uses the necessary software for a contour overlap analysis. In fact, as stated in the FNPRM, the Commission has granted more than 3000 construction permits for translator stations using the contour overlap method in less than two years, more than three times the number of low power permits granted in five years by the "simpler" minimum distance spacing method. We admit that there are other factors

at play, but these raw numbers present incontrovertible evidence that the Commission has the resources and know-how to process applications effectively using the contour overlap method—and chooses to take the trouble do so for some licensees.

Use of a contour overlap methodology provides a more efficient use of the scare spectrum, as the Commission acknowledges in the *FNPRM*.[4] *FNPRM* at ¶34-35.

In the *FNPRM*, the Commission tentatively concludes that use of a contour overlap methodology would result in higher application error rates because of the complex and costly engineering exhibits required. *FNPRM* at ¶35. In support of this argument the Commission points out that "many LPFM applicants had significant problems successfully preparing basic technical showings, completing simplified application forms, and responding to staff requests for required amendments." *FNPRM* at ¶ 35.

While we acknowledge that LPFM applicants made many foolish errors when filing Form 318, there are several circumstances that caused the high error rate which the Commission notes in the *FNPRM*.[5] Because they are unlikely to recur,

---

[4] The Commission recognized "that this [channel spacing] methodology is more restrictive than the FM translator contour methodology." *FNPRM* at ¶ 35. Additionally, the Commission recognized the "limited LPFM spectrum availability in many large and medium-sized communities." *FNPRM* at ¶ 34.

[5] The Commission "staff dismissed approximately one-third of all applications for basic technical and legal defects." The Commission went on to conclude tentatively "that the more complex contour methodology would create even more processing problems." *FNPRM* at ¶ 35.

this history does not justify the Commission's tentative conclusions. One of the causes of the high error rate was the unfortunate wording of several questions, which required applicants to affirm a negative statement.[6] Additionally, many of the questions are so poorly worded that an applicant is required to read several pages of instructions in the appendix. The purpose of the application forms should be to determine the eligibility of the applicant, and should not serve as a de facto reading comprehension test.

Additionally, the Commission should acknowledge that a large number of applications were defective because they were the product of fraudulent mass filing schemes. Currently, the Commission insufficiently discourages nationwide network building schemes in its LPFM rules. The public would be better served with rules that only allowed genuinely local organizations to apply for LPFM licenses. National radio empire builders squander the time and resources of the Commission, and use the scarce remaining airwaves available for local community radio to rebroadcast programming easily found elsewhere. Stronger regulations preventing abuse of the LPFM licensing system would do far more to conserve the staff resources of the Commission and reduce application errors, than denying applicants the opportunity to make the most efficient use of the spectrum through a contour overlap methodology.

---

[6] Questions required applicants to certify that they had no other broadcast interests. For example, many applicants responded with a "no," meaning that they did not own any other broadcasting interests. However, the correct answer was "yes," indicating that they certify that they have no other broadcasting interests.

To alleviate the Commission's concerns of extended processing time frames, licensing delays, and efficiency, the Commission should adopt a two filing window system in each region. The first filing window would use the simpler minimum distance spacing requirements; therefore if an LPFM applicant meets the spacing requirements, the application is processed. The second filing window would use a contour overlap methodology and require the inclusion of a professional engineering exhibit. The second window would accommodate LPFM stations in areas that do not have available channels using minimum distance spacing requirements. This second filing window would have fewer errors because experienced engineers would submit the applications after a thorough analysis.

The Commission should allocate all LPFM stations that file under this second window by the same technical rules currently used by translators and should receive similar interference protections to those found in 47 CFR § 74.1203 (2005). The Commission errs in tentatively concluding that Section 74.1203(a) of the Commission's rules "would be wholly inappropriate for the LPFM service." *FNPRM* at ¶ 36. The Commission stated a concern for the risk of uncertainty because section 74.1203(a) requires an FM translator to go off the air if it is unable to eliminate interference caused to any authorized broadcast station. *FNPRM* at ¶ 36. Low power advocates are currently seeking documentation of the number of translators that have been taken off the air for interference reasons.

Additionally, LPFM applicants using the contour overlap methodology will have adequate understanding of the risks involved in this form of licensing.

Considering the relative rarity of interference caused by stations filed with a competent engineering study, the risk of a station being forced off the air due to actual interference is negligible. The small risks associated with a contour overlap methodology as described above are well worth assuming, when considering the opportunity for new service lost by ignoring this methodology. As will be argued later, if adequate engineering flexibility is granted (flexibility on parity with what is currently allowed for translator licensees), we believe complete displacement will be relatively rare. Finally, this methodology provides no added risk to the public or incumbent radio stations because any interference caused by this methodology would be eliminated by modification of LPFM facilities or shutting down the LPFM station.

II. LPFM STATIONS SHOULD BE PROTECTED FROM ENCROACHMENT BY FULL POWER COMMERCIAL STATIONS

Currently, full power commercial FM stations encroaching upon the LPFM service area displace valuable LPFM stations. Current rules create a disparity. Full power commercial stations can easily conjure up interference by making relatively small, albeit, "major," engineering changes. LPFMs are foreclosed from making any changes, leaving them powerless to repel what are no less than calculated attacks upon them. By allowing the displacement of an LPFM station by an encroaching full power FM station, the Commission is sanctioning the loss of a valuable community programming source and the diminution of diversity in the community.

The LPFM service provides a unique contribution to its community. Because LPFM stations are tied into their community, the LPFM service is truly different from full power commercial FM service. The LPFM service is specifically designed as a unique community voice because of the deficiencies in the full power commercial FM service. The Commission itself recognized these deficiencies when it noted that concentration in the full power FM service diluted the diversity of voices and quality of service. As a result, it is important for the Commission to protect the LPFM service and its valuable and unique contributions to the local community.

The Commission should, as a policy matter, prevent full power commercial FM stations from encroaching upon an LPFM service area by granting LPFM stations co-equal primary status with full power stations. The Commission's stated rationale in the original report and order for LPFM for giving full power stations primary spectrum privileges with respect to low power stations is the greater public service purportedly performed by full power licenses. As is cited elsewhere in this document, in this era of automation and consolidation, nothing could be further from the truth. In the alternative, the Commission should adopt a policy guideline, implemented by the full Commission when considering a license application, to presume that if granting an application for a full power license would either eliminate or seriously degrade the listening area of an LPFM station, the grant of the application is not in the public interest. Additionally, the Commission should

allow any incumbent displaced LPFM station to make major engineering changes, such as moving beyond the allowed 5.6km or changing to an available frequency.

A. A Rule Protecting LPFM Stations From Encroachment By Full Power Stations Should Be Adopted

Low power stations should have co-equal, primary status with full power stations. Things have changed since the creation of LPFM in 2000 – the radio industry is even worse and it is increasingly clear that LPFM stations committed to eight (8) hours of locally originated programming are more willing to fulfill public service requirements than full power incumbents. Status should be based on commitment to local service, rather then based on which service has been around longer.

The Commission should permit LPFM stations to remain on the air in locations where they operate, especially when the full power station did not previously cover that area. The Commission should implement policies that generally discourage full power stations from moving out of their original community of license or expanding into an LPFM community of license. Allowing a full power station to change its community of license so easily encourages station owners to move away from the communities that were intended to benefit from the full power service and shuts off a valuable source of programming in the encroached upon LPFM station

B. Alternatively, A Processing Guideline, Which Presumes Elimination Or Serious Degradation Of An LPFM Station Area Caused By Grant Of A Full Power License Application Is Not In The Public Interest, Should Be Adopted

If the Commission chooses not to adopt a rule granting primary status to LPFM stations, allowing an LPFM station to be bumped by the encroachment of a full power station should not be a staff level decision. Each encroachment decision should require a full Commission vote and a public interest evaluation. Public interest considerations should require the full power station's showing that its programming will better serve the communities of license than the LPFM and an opportunity for the LPFM station to respond.

In this vein, the Commission should adopt a processing guideline in evaluating the grant of a full power application for a new license or change in license, which adopts a presumption that if granting the application would either eliminate or seriously degrade the LPFM listening area of an encroached upon LPFM, the grant of the application is not in the public interest. This processing guideline would require the full power station to submit a public interest statement whenever granting of its application will encroach upon an LPFM station. The public interest statement should certify that the full power station would better serve the community of license then the current LPFM and explain how shutting off a source of programming is in the public interest. The low power station should have an opportunity to respond with both technical and public interest arguments. The process could be much like the current process for a petition to deny. The final results of this process should be presented to the full Commission for Commission vote level approval of a discontinuation of service by a LPFM.

The Commission has the authority to adopt a processing guideline for evaluating the grant of licenses.[7] The Commission errs when it tentatively concludes in the *FNPRM* that a 'processing policy' of this nature would afford no certainty to LPFM operators. *FNPRM* at ¶ 39[8]. Indeed, the Commission previously recognized that adoption of processing guidelines provides ***more*** certainty and facilitates the Commission's processing efforts. *Polices and Rules Concerning Children's Television Programming*, 11 FCCRcd 10660, 10662 (1996) ("*CTP Report and Order*"). In the *CTP Report and Order*, the Commission specifically concluded that the processing guidelines adopted would provide a desirable clarity and "help to narrowly tailor [the Commission's] regulations." *CTP Report and Order* at 10733.[9]

---

[7] The Commission has the authority "to prescribe the qualifications of station operators, to classify them according to the duties to be formed, to fix the forms of such licenses, and to issue them to persons who are found to be qualified by the Commission." *Powers and Duties of the Commission*, 47 U.S.C. § 303(l)(1) (2005). Congress delegates authority to grant licenses, license renewals, license transfers, and changes in licenses to the Commission. The Commission modifies its authority to grant license applications in the form of rules and processing guidelines.

[8]MAP has previously requested that the Commission adopt a '"processing policy" that would permit the denial of a full service FM station's modification application if "grant of the application will deny a local community content by reducing the coverage available to LPFM stations."' *FNPRM* at 39 (citing, *Letter from Harold Feld*, Media Access Project, to Marlene H. Dortch, Secretary, Federal Communications Commission (Feb. 15, 2005) (misdated Feb. 15, 2004) ("2/15/05 MAP Ex Parte")).

[9] The Commission also found processing guidelines desirable as "a clear, fair and efficient way to implement the Children's Television Act." *CTP Report & Order* at 10663. The Commission described processing guidelines as "desirable as a matter of administrative efficiency" and providing a "clear benchmark" for assessing performance. *CTP Report & Order* at 10720-22.

Additionally, the Commission errs in tentatively concluding that a processing guideline would provide LPFM stations with primary status. A processing guideline is merely a self-executing mechanism, with some flexibility, that creates a licensing safe harbor for any station that meets its guidelines.[10] Processing guidelines do not create hard and fast rules, nor do they apply punitively. Rather, they are flexible "guidelines" for implementing Commission policy.[11] The Commission errs policy-wise by applying primary and secondary status interference considerations in its public interest evaluation.[12] The Commission wrongly assumes that because a service is primary in interference, then it can ignore secondary services altogether. As a result, the Commission ignores secondary services, such as LPFM, in considering licensing of full power stations. Currently, when evaluating an application for a new license or change in license for full power stations, the Commission ignores the impact of granting the application on secondary services, such as LPFM. The proposed processing guidelines are designed to aid the Commission in evaluating the public interest by requiring a consideration of the impact of licensing on encroached upon LPFM stations.

---

[10] A station must make a certification that it meets the processing guidelines. If the station meets the processing guidelines, then the station avoids scrutinized review and is able to take advantage of routine licensing procedures that are self-executing. If a station fails to meet the processing guidelines, then the station must make a special case to obtain a license.

[11] "The processing guideline we adopt today… provides a measure of flexibility for licensees in meeting the requirements…" *CTP Report and Order* at 1721.

[12] The proposed processing guidelines are designed as a method of requiring a complete and thorough public interest analysis, while providing efficiency and clarity for full power station operators, LPFM station operators, and the Commission itself.

C. LPFM Stations Should Be Given the Opportunity To Make Major Engineering Changes When Encroached Upon By A Full Power Station

LPFM stations that are bumped by, or experience, significant interference due to encroachment by full power stations should have every opportunity to move, outside of a filling window, to any frequency that meets the translator rules. It is our perception that if the stations in this position are given the full range of options for engineering amendments and directional antennas that translators are given, these stations will often be able to modify facilities and stay on the air. LPFMs that would end up being forced off the air should also be made primary to pre- existing non-local translators, as per Appendix C. Thus, a LPFM station that makes the local origination pledge would be able to take a frequency from a non-local translator or require that it must reduce facilities.

III. LOCAL ELIGIBILITY RESTRICTIONS ENSURE LOCAL SERVICE AND UPHOLD THE LOCALISM GOALS OF THE LPFM SERVICE, THEREFORE LPFM OWNERSHIP SHOULD BE LIMITED TO LOCAL ENTITIES

The key policy concept that should guide the Commission through this rulemaking is strengthening the Commission's definition, analysis, and utilization of local origination pledges in making decisions regarding the allocation of scarce spectrum available for Low Power FM stations. Additionally, the Commission must ensure the LPFM goal of localism by providing strong local eligibility requirements.

Given the scarcity of available channels for broadcast, the public's interest in "the widest dissemination of diverse and antagonistic viewpoint"[13] clearly outweighs the right to repeat, verbatim, speech already available on other stations.

A. Local Origination Must Be Clearly Defined

The Commission makes a constructive proposal in the NPRM by specifying that locally originated programming does not include satellite and repeatedly re broadcast programming. We seek to clarify a final measure of ambiguity in this definition, in the course of advocating that local origination become a more actively used policy element in determining spectrum priority. A local individual who selects twenty (20) songs, records them on a cassette, and leaves them on a tape loop that repeats every hour with a station ID, could theoretically meet a very loose definition of local origination. We believe that the definition of local origination should further specify that no form of automated programming meets the local origination requirement- such as randomized songs or long blocks of locally produced programming run a few times. It also bears emphasis that programming cannot be considered towards the local origination requirement after the second time it is played on the air—thus allowing newscasts that are broadcast twice in a day of a week can contribute to the 8 hour standard, but cannot be reused an indefinite number of times

B. Local Eligibility Requirements Must Remain In Effect and Non-Waivable

[13] *See Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969).

The Commission expresses concern that an eligibility restriction for local entities might result in some communities losing LPFM service because no local entity seeks to provide it. FNPRM at ¶ 23. The Commission's concern is unfounded because the LPFM service is not a goal in and of itself. The goal of the LPFM service is to provide outlets for local entities, local news and public affairs, and information regarding local services. A non-local entity is not in a position to meet the goals of localism and provide an outlet for these local services. Non-local entities are not denied ownership of radio stations; rather, they can own full-power radio stations and translators. There is no reason to dilute the LPFM ownership rules by allowing non-local entities to own stations designed specifically to promote localism.

The Commission should not grant a waiver of local eligibility restrictions in cases in which the applicant can demonstrate that no local entity has sought to provide service.[14] Once again, the goal of LPFM is localism. It is preferable for an LPFM frequency to remain dark until a suitable local entity wishes to operate the station, rather than allow a non-local entity to undermine the goals of localism. The Commission should make plain that non-local entities will not receive a renewal expectancy should a local group apply for the frequency at the next renewal window.

[14] The Commission asks whether it should "permanently restrict eligibility to local entities but grant a waiver of such restriction in cases in which the applicant can demonstrate that no local entity has sought to provide service?" *FNPRM* at ¶ 23.

C. The Ten (10) Mile Requirement Should Be Extended To Twenty (20) Miles For LPFM Stations Outside Of The Top Fifty (50) Urban Markets

The Commission adopted a ten (10) mile requirement, which required that all LPFM applicants be based within ten (10) miles of the station they sought to operate. In rural areas, where most LPFM stations are located, the ten (10) mile requirement is a high hurdle for LPFM stations to find qualified board members. During the initial LPFM proceeding, Prometheus Radio Project sought the ten (10) mile requirement because of a concern that people living in affluent suburbs of urban areas would control the urban community radio stations. However, experience shows that this concern is not applicable to rural communities.

In urban markets, the ten (10) mile limit makes sense because of the greater population density in urban areas. Outside of the top fifty (50) urban markets, a limit of twenty (20) miles would be more appropriate. Many people can still hear LPFM stations at ten (10) and twenty (20) miles in their cars, which is the main form of transportation in these rural communities. People in rural communities often listen to and participate in stations that are outside of their home coverage area, because they listen to the station on their drive to and from work and at work.

IV. MULTIPLE OWNERSHIP OF LPFM LICENSES SHOULD BE PROHIBITED OR, IN THE ALTERNATIVE, SIGNIFICANTLY LIMITED

As Prometheus Radio Project maintained in the original LPFM rulemaking, the Commission should not allow entities to have more than one LPFM station. The benefits of allowing some LPFM licensees to obtain multiple LPFM stations,

such as efficiency of operation, are far outweighed by the negative impacts on local service. As long as there are qualified entities that would like to operate LPFM stations, some of whom are unable to obtain one because of the scarce spectrum, there is no benefit in allowing some LPFM licensees to operate more than one station. The prime goals of LPFM are local service, local self-expression, and local ownership. While efficiency of operation is important, it does not outweigh these prime goals of LPFM service. The one (1) station per owner rule should be permanently extended and the provision allowing non-local entity multiple ownership after two (2) years should be deleted.

However, if the Commission allows multiple owners of LPFM stations, the Commission should make plain that the multiple owner is entitled to no renewal expectancy at the next renewal window. This policy would balance the ability of non-local entities to provide service in areas where no local entity would like to, while maintaining the primacy of the local community and the basic value that all interested and qualified parties should get an LPFM license before any organization gets additional licenses.

The LPFM service was created for local entities and not for cross-country networks seeking to build a national system of mini-transmitters. The Commission must uncover national entities trying to play the system by using LPFM stations as a front for their national networks, and deal with them accordingly. Consolidated ownership of media outlets is counter to the Commission's goal of localism. By continuing to prevent multiple ownership of LPFM stations, the Commission would

help to preserve and protect diverse, local voices and introduce independent, local media into the country.

The Commission expresses a concern that a continued limitation on multiple ownership would prevent LPFM licensees from achieving economies of scale. *FNPRM* at ¶ 23. However, the Commission's concern is not the primary focus of the LPFM service. The goal of the LPFM service is not to provide an economy of scale, but to serve unrepresented local voices. Many LPFM stations are healthy and fiscally viable. While some comments filed in this docket will claim that LPFM operators need ten (10) LPFM licenses in order to pursue the financial goals of their LPFM station successfully, there are many single LPFM stations that successfully fulfill the LPFM station mission, pay the bills, and operate in a sustainable environment.

V. LIMITS ON THE TRANSFERABILTIY OF LPFM LICENSES SHOULD EXIST IN ORDER TO PROTECT FROM SPECULATIVE FILING AND OTHER ABUSES OF THE COMMISSION'S RULES.

A. LPFM License Holders Should Not Receive Consideration In Exchange For Transfers or Assignments

The Commission should not allow transfers or assignments to be made in exchange for consideration. Allowing transfers or assignments for consideration, even for the legitimate and prudent expenses of the LPFM license holder, would open up too large a loophole and could allow a pseudo-market to emerge. In order to protect the LPFM service as a local community voice, the Commission has a duty to prevent a system in which LPFM stations go to the highest bidder. Allowing

transfers and assignments for consideration would create a market in which only those with substantial resources and money could obtain an LPFM station, effectively preventing local community groups from participating in the LPFM service.

If all the volunteer hours sunk into an LPFM station were added up and valued at the rates of lawyers and engineers, legitimate and prudent expenses could add up to far more than the values that LPFM stations could actually command in a market place. The ability to do public service and provide a community voice through operation of a Low Power station is an opportunity and a privilege rather than an investment. The argument that market forces can be marshaled to ensure the highest quality of use of LPFM licenses for public service errs because LPFM licenses are precisely designed for those types of public services where market driven forces failed to provide diversity in commercial and even non-commercial broadcasting.

The Commission should specifically prevent the transfer or assignment of LPFM licenses for consideration. However, in some situations an LPFM licensee may no longer be in a position to run the LPFM station. In these situations a licensee should return the license to the Commission for reissue or the licensee should transfer or assign the license without consideration to another organization. In order to facilitate the requirement that no consideration is given for transfers and assignments of LPFM licenses, parties must certify that no consideration was provided in the transfer, beyond the depreciated fair market value of the physical

equipment and facilities.

B. A Holding Period Restriction Should Limit the Transfer of Licenses

To protect the LPFM service from speculative filing, the Commission should enforce a holding period of three years from the issuance of license in which the licensee cannot transfer or assign the license and must operate the station. Additionally, construction permits must not be transferable or assignable under any circumstance. If a licensee is unable to build during the construction period or no longer wants to operate the LPFM station during the holding period, the licensee may return the license to the Commission for redistribution.

VI. COMMISSION RULES SHOULD PERMIT THE TRANSFER OF CONTROL OF AN LPFM LICENSEE IN THE CASE OF A SUDDEN CHANGE IN THE MAJORITY OF THE GOVERNING BOARD

LPFM stations encounter sudden changes to their board of directors in a number of circumstances. Some LPFM stations have elected board of directors, while others have self-perpetuating boards. LPFM organizations with an elected board of directors can elect a new board, replacing as much as 100% of the board, while retaining the original LPFM mission. Often, the mission is upheld by a subcommittee operating the station, as the board of directors commonly leaves the day-to-day operations of the station to such a subcommittee.

On occasion, the board of directors will prefer to hand off the LPFM station to the group actually making most of the day-to-day decision. Often, the LPFM

stations outgrow their parent organizations, because the parent organization has only a small staff and board, while the LPFM station has 200-300 volunteers, and the parent organization would prefer to allow the subcommittee to operate independently. Additionally, there are times when the original applying organization becomes financially insolvent, dissolves, or completes its original mandate, but is unable to because they are the licensee of the LPFM station and would not like the station to go off the air.

Given the regulatory uncertainty in LPFM board changes, some LPFM stations are confused about how to report changes in their governing structure, while remaining in compliance with the rules. The current rules appear to state that a change of more than 50% of the board constitutes a major change, as a result, this change would only be allowed during a window. The Commission should consider changes in the governing board of an LPFM station a minor change eligible for filing at any time, without a window. The main reason for restricting major changes to filing windows is to preserve a fixed universe of changes in spectrum allocations, therefore multiple pending requests for changes are jointly considered to determine their joint effect on the spectrum. Changes in the governing body of an LPFM station do not affect spectrum allocation, therefore it is unnecessary to force LPFM licensees to wait for a major amendment filing window to change their governing body.

The Commission should still analyze changes in the governing board to determine whether they constitute a transfer of control. Transfer policies should

allow for these sorts of common developments in small, non-profit organizations. The Commission should establish a one-time amnesty for LPFM applicants, in which they are allowed to change more than 50% of their board of directors in a single calendar year. These changes are necessary to rectify the past five (5) years of confusion regarding compliance with these rules.

The Commission's distinctions between organizations with self-perpetuating boards versus democratically elected boards are helpful. We believe that democratically elected boards should be changeable at any time, by any percentage without triggering ownership change questions at the Commission. Self-perpetuating boards that convert to democratically elected boards should also be allowed this flexibility, as long as the licensee or applicant certifies that the organization indeed remains the same organization. Self-perpetuating boards should be limited to 50% turnover per calendar year, but should be allowed to eventually change 100% of more from their original board of directors. In organizations with self-perpetuating boards, there should be certification that no consideration was received in the transfer of board membership.

VII. LPFM APPLICATION WINDOWS SHOULD OPEN AT REGULAR INTERVALS, AT LEAST EVERY TWO (2) YEARS

Currently, the Commission does not provide schedules announcing when it will open LPFM filing windows. As a result, the system rewards Commission-savvy organizations with experienced engineers and lawyers, who can dash off hundreds of applications at a moment's notice. In some cases, it appears that sophisticated

engineers have even designed computer programs that can dash off hundreds and even thousands of mass-produced applications into the Commission's electronic application webforms. The current rules punish grassroots organizations that are unable to prepare adequately for unannounced application windows, which is contrary to the stated LPFM purposes of localism and allowing diversity in the field.

Windows for LPFM applications should open at regular intervals at least every two years. Many of the drawbacks to the LPFM radio service stem from the Commission's lack of predictability. LPFM applicants and licensees are never certain when the Commission will allow changes or accept application, as a result, the stakes for applicants are much higher when windows are actually opened. Applications thrown out for errors would not be as detrimental to the LPFM service and applicants if LPFM applicants knew they would be able to reapply within two years or some other fixed interval.

Although Citizen Commenters ask for maximum flexibility for LPFM applicants, a less flexible process that provided more stringent rules regarding minor errors made by applicants would be more acceptable, if the Commission committed to a timetable for application and major change windows. Many of the problems that the Commission experienced with the processing of LPFM applications sprung from the long delays—making communication with applicants more difficult as landlines were exchanged for cell phones, email boxes filled up and mailing addresses changed for many of the parties to the application and the contact representatives were hired and fired or died. Many LPFM applicants

simply did not believe that their application was active any more due to long periods of Commission inaction. A schedule would do much to prevent these inefficiencies due to poor communications.

VIII. LPFM CONSTRUCTION PERMITS SHOULD BE EIGHTEEN (18) MONTHS IN DURATION, WITH AN AUTHOMATIC EXTENSION OF AN ADDITIONAL EIGHTEEN (18) MONTHS UPON REASONABLE REQUEST.

The Commission should not extend the LPFM construction period to three (3) years. Instead, the Commission should create an automatic extension of an additional eighteen (18) months, available upon application by the LPFM permittee showing that they have been diligent in attempting to complete construction or other reasonable cause. The initial construction period of eighteen (18) months combined with the extension period of eighteen (18) months would create the same three (3) year construction period afforded to other broadcast permittees, but would encourage LPFM applicants to complete construction within a reasonable time and prevent LPFM applicants from sitting on valuable spectrum.

Sometimes LPFM applicants lose interest in the LPFM station, are unable to afford the construction costs, move, fail to keep in contact with the FCC, or become difficult to communicate with. The Commission ends up wasting a lot of time trying to track these LPFM applicants down. By creating an extension period by application, rather than completely extending the construction period, the Commission is able to put the LPFM license back up for offer to the public within a reasonable time when a holder of an LPFM license is incommunicado, fails to build

within the initial construction period, and does not apply for an extension. By creating an extension period (available by application), the Commission is ensuring the efficient use of spectrum and making sure that LPFM applicants are not merely holding on to a channel they do not intend to use. Extensions should be available upon request for any reasonable cause, not just for reasons that are completely beyond the control of the applicant. Examples of reasonable causes include failure to raise adequate funds for construction, local regulatory delay, loss of site for studio or transmitter, changes in administration or personnel at the licensee organization, and others.

CONCLUSION

WHEREFORE, Citizen Commenters ask the Commission to grant the relief requested, and all such other relief as may be just and proper.

Respectfully submitted,

/s/

Harold Feld
Andrew Jay Schwartzman
Media Access Project
Suite 1000
1625 K Street, NW
Washington, DC 20006
(202) 232-4300

Law Student Interns:
Jennifer Scher
Southwestern University School of Law

Amy Vanderlyke
Syracuse University College of Law

.

August 24, 2005

Appendix A

PROMETHEUS RADIO PROJECT, *ET AL.*

All parties listed here endorse the general comments submitted above. With regard to the relationship between translators and LPFM licensees, Prometheus Radio Project, National Lawyers Guild, WSCA-LP, KRFP-LP, Radio Free Moscow, Common Cause, Richmond Greens/Green Party, and Hawaii Consumers separately submit the proposal in Attachment B and do not endorse Attachment C. The National Federation of Community Broadcasters and the Office of Communication of the United Church of Christ, Inc. explicitly do not endorse the proposal in Appendix B and instead endorse the proposal of REC NETWORKS as set forth in Appendix C. All other parties listed express no opinion on either Appendix B or Appendix C.

Prometheus Radio Project: The Prometheus Radio Project was created in 1998 by former pirate radio operators to promote the re-emergence of community radio and the democratization of the airwaves. Our stations served our communities while defying the media monopoly. Because the FCC responded to our acts of civil disobedience with some good faith first step reforms, we put down our Jolly Rogers and went to work reforming radio policy and making sure that good community groups successfully got licenses under the new plan. Prometheus is an activist group that fights for a more egalitarian media by helping community groups to start their own radio stations. We fight for the right of all citizens to use the public airwaves to make their own media.

National Federation of Community Broadcasters: The National Federation of Community Broadcasters (NFCB) is a 30 year old national membership organization of community-oriented, non-commercial radio stations. Large and small, rural and urban, eclectic or targeted toward specific communities, the member stations are distinguished by their commitment to localism, diversity, and community participation and support. http://www.nfcb.org/index.jsp

Office of Communication of the United Church of Christ, Inc.: UCC is a nonprofit corporation, charged by the Church's Executive Council to conduct a ministry in media advocacy to ensure that historically marginalized communities (women, people of color, low income groups, and linguistic minorities) have access to the public airwaves. The United Church of Christ has over 1.3 million members and nearly 6,000 congregations. It has congregations in every state and in Puerto Rico. http://www.ucc.org/ocinc

Free Press: Free Press is a national nonpartisan organization working to increase informed public participation in crucial media policy debates, and to generate policies that will produce a more competitive and public interest-oriented media system with a strong nonprofit and noncommercial sector. http://www.freepress.net

Common Cause: Common Cause is a nonpartisan nonprofit advocacy organization founded in 1970 by John Gardner as a vehicle for citizens to make their voices heard in the political process and to hold their elected leaders accountable to the public interest. Now with nearly 300,000 members and supporters and 38 state organizations, Common Cause remains committed to honest, open and accountable government, as well as encouraging citizen participation in democracy. www.commoncause.org

Center for Creative Voices in Media: The Center for Creative Voices in Media is a nonprofit
501(c)(3) organization dedicated to preserving in America's media for the original, independent, and diverse creative voices that enrich our nation's culture and safeguard its democracy. CCVM's Board of Advisors is made up of numerous winners of Oscars, Emmys, Tonys, Peabodys, and other awards for creative excellence, including Warren Beatty, Peggy Charren, Blake Edwards, Tom Fantana, Sissy Spacek, Sander Vanocur, and Martin Kaplan. http://www.creativevoices.us

The U.S. Public Interest Research Group: U.S. PIRG serves as the national advocacy office for state PIRGs, which are nonprofit, nonpartisan advocacy groups with members around the country. The state PIRGs have a long history of promoting a competitive and democratic media system that serves the needs of consumers and citizens. http://www.uspirg.org

Center for Digital Democracy: CDD is a nonprofit public interest organization committed to preserving the openness and diversity of the Internet in the broadband era, and to realizing the full potential of digital communications through the development and encouragement of noncommercial, public interest content, programming and services. http://www.democraticmedia.org

CCTV Center for Media & Democracy: CCTV Center for Media & Democracy was founded in 1984 to advance public access to cable television and telecommunications. CCTV operates
Channel 17/Town Meeting Television, CyberSkills/Vermont, and CCTV Productions in Burlington, Vermont. http://www.cctv.org

Media Alliance: Media Alliance is a 29-year-old media resource and advocacy center for media workers, non-profit organizations, and social justice activists. Our mission is excellence, ethics, diversity, and accountability in al aspects of the media in the interests of peace, justice, and social responsibility. http://www.media-alliance.org

Benton Foundation: The mission of the Benton Foundation is to articulate a public interest vision for the digital age and to demonstrate the value of communications for solving social problems. http://www.benton.org

Reclaim the Media: Based in the Northwest, Reclaim the Media advocates for a free and diverse press, community access to communications tools and technology, and media policy that serves the public interest. The group envisions an authentic, just democracy characterized by media systems that inform and empower citizens, reflect our diverse cultures, and secure communications rights for all. http://reclaimthemedia.org

The National Lawyers Guild Center on Democratic Communications: The Center on Democratic Communications focuses on the right of all peoples to a world-wide system of media and communications based upon the principle of cultural and informational self-determination. The Center formed in 1987 to work for the First Amendment and for the Right to Communicate as an international human right. The Center supports independent media organizations and forms of communication, such as micro-radio, public access television, and grass roots cyberspace resources, and works to ensure that they can function free from government or big business control. The Center offers legal advice and representation to groups and individuals seeking to establish and sustain such forms of communication.

New Mexico Media Literacy Project: The New Mexico Media Literacy Project, the largest and most successful independent, activist media literacy project in the United States, cultivates critical thinking and activism in our media culture to build healthy and just communities. Founded by veteran newscaster Hugh Downs and his daughter Diedre Downs in 1993, NMMLP is an outreach project of Albuquerque Academy, a private 6-12 school that provides in-kind support and fiscal agency to the Project. In order to preserve our independence, NMMLP is one of the few media literacy organizations that accepts no funding from the media industry."

Valley Free Radio: Valley Free Radio is a community based organization, a sub-committee of license holder, the Media Education Foundation, operating WXOJ-LP of Florence, MA. www.valleyfreeradio.org Valley Free Radio went on the air on August 7th, 2005 with the assistance of the Prometheus Radio Project.

Media Democracy Chicago: Media Democracy Chicago is a broad-based group that advocates media diversity and accountability to the public interest. We intend to bring people together from different walks of like to do something about making media better, now and in the future. We want citizens to have a voice in formulating media policy.

Chicago Media Action: (CMA) is an activist group dedicated to analyzing and broadening Chicago's mainstream media and to building Chicago's independent media. cma@chicagomediaaction.org

Citizens for Independent Public Broadcasting: Citizens for Independent Public Broadcasting is a national membership organization dedicated to putting the

PUBLIC back into public broadcasting so that we can all join in the debate about our nation's future. At the national level, CIPB has developed a detailed proposal for a Public Broadcasting Trust (PBT) that is independently funded, publicly accountable, and true to the service's founding mission. At the community level, CIPB builds chapters, and is working with national partner organizations to democratize community public broadcasting service. Toward these goals CIPB offers a training manual, video and a national clearinghouse for organizing. www.cipbonline.org

New America Foundation: The New America Foundation is a nonpartisan, non-profit public policy institute based in Washington, DC, which, through its Wireless Future Program, studies and advocates reforms to improve our nation's management of publicly-owned assets, particularly the electromagnetic spectrum. www.newamerica.net

Students Concerned About Mass Media: Based in Boston, Massachusetts, S.C.A.M.M. (Students Concerned About Mass Media) is a student-run organization working to engage students, faculty and the community in important issues and debates facing our commercial-driven media system. S.C.A.M.M. provides opportunities, through forums, campus discussions and actions, for students to engage in a critical look at the media to ensure that a diversity of voices and points of view are accurately represented. http://www.scamm.org

The People's Channel: The mission of Chapel Hill, NC-based The People's Channel is to provide the means and promote the opportunity for area citizens to create local cable television programming based on the principles of free speech, diversity of expression, and democratic participation. www.thepeopleschannel.org

The National Hispanic Media Coalition: The National Hispanic Media Coalition (NHMC) advocates to improve the image of Hispanic-Americans as portrayed by the media and to increase the number of Hispanic-Americans employed in all facets of the media industry.

Portsmouth Community Radio WSCA-LP: Portsmouth Community Radio WSCA-LP, a project of the Seacoast Arts and Cultural Alliance, is a volunteer-run community radio station dedicated to providing educational and engaging programming to Portsmouth and surrounding New Hampshire and Maine seacoast communities. WSCA-LP went on the air September 12, 2004 in conjunction with a Prometheus Radio Project Barnraising and has since been broadcasting 24/7 providing locally produced news, cultural, health, civic, youth, and music programs presented by programmers of all ages. WSCA-LP has quickly become a vital part of the fabric of our community.

Radio Free Moscow, Inc.: Radio Free Moscow is a nonprofit organization dedicated to the progressive values of peace, justice, democracy, human rights,

multiculturalism, environmentalism, freedom of expression, and social change. Radio Free Moscow operates KRFP, a listener-supported community radio station serving Moscow, Idaho, and surrounding areas. KRFP reflects Radio Free Moscow's values by broadcasting news and opinions, civic affairs, diverse music and other programming seldom heard from mainstream media outlets.

KDRT-LP: KDRT-LP is a low-power radio station serving the community of Davis, CA population 64,221. KDRT-LP launched on September 24, 2004 in a ceremony presided over by the Mayor of Davis. KDRT-LP aims to inspire, enrich and entertain listeners through an eclectic mix of musical, cultural, educational, and public affairs programs and services. Our station builds community by promoting dialogue, encouraging artistic expression, and acting as a forum for people who typically lack media access.

Richmond VA Green Party: Local Virginia Green Parties run campaigns throughout the state and continue to lobby for legislation which protects our environment, health, and the rights of people throughout the VA Commonwealth. The Richmond Green Party is committed to building a new political party and a movement dedicated to promoting ecology, democracy, justice, community and peace.

Hawaii Consumers: Hawaii Consumers is a new group that advocates for consumers in Hawaii. Citizen access to media is one of Hawaii Consumers' primary concerns, as localism, diversity and competition in media are key issues of interest to Hawaiian consumers.

Thinking Out Loud: Thinking Out Loud is a daily public affairs radio program on WUML FM, Lowell, Massachusetts with ten weekly, one hour segments in 5 languages. Thinking Out Loud brings multi-cultural community-based public affairs radio to the Merrimack Valley area of northeastern Massachusetts and southern New Hampshire. Its mission is to make a connection between the larger issues that affect our society and people's day-to-day lives, provide media access to the area's under-served communities and overcome the limitations of commercial broadcasting by raising issues you don't hear elsewhere. Its many co-hosts and volunteers are recruited from Merrimack Valley residents involved in community service work, as well as UMass Lowell staff and students.

The Future of Music Coalition: The Future of Music Coalition is a not-for-profit collaboration between members of the music, technology, public policy and intellectual property law communities. The FMC seeks to educate the media, policymakers, and the public about music / technology issues, while also bringing together diverse voices in an effort to come up with creative solutions to some of the challenges in this space. The FMC also aims to identify and promote innovative business models that will help musicians and citizens to benefit from new technologies.

Appendix B

PROPOSAL OF PROMETHEUS RADIO PROJECT, NATIONAL LAWYERS GUILD, WSCA-LP, KRFP-LP, RADIO FREE MOSCOW, COMMON CAUSE, RICHMOND GREENS/GREEN PARTY, AND HAWAII CONSUMERS REGARDING RELATIVE SPECTRUM PRIORITY OF LPFMS AND TRANSLATORS

Translators are designed to extend the reach of another station and cannot originate programming, whereas LPFM stations must originate their own local programming. Currently, non-commercial translators can be fed by satellite and several parties have petitioned the Commission to extend the rule to commercial band translators as well. Satellite fed translators are not functioning to extend the reach of a local station which produces local programming and, because they do not produce or transmit local programming, they fail to meet the Commission's goals of localism and diversity.

Additionally, there is no limit on the number of translators an applicant can own. The combination of no ownership limits and no obligation for local programming results in certain organizations using the loose translator rules to build gigantic radio empires. Because LPFMs and translators are essentially competing for similar "holes" between full power stations, every new translator that does not originate local programming takes the place of a potential LPFM station rooted in the local community and originating local programming. The potential preclusive impact is particularly devastating if the Commission elects to accept our recommendations later in this document to allow low power fm stations to use the contour overlap method for determining spectrum availability for LPFM- in which the correspondence of LPFM and translator opportunities becomes isomorphic, but

for "local translators" as elsewhere defined in this document.

The Commission repeatedly expressed its commitment to localism and diversity. In order to meet this mandate, the Commission must improve the LPFM service's spectral priority with respect to translators.

A. Only Local Applicants Should Be Able To Apply For Translators Or LPFMs

During the initial comment phase, Prometheus Radio Project opposed LPFM ownership by non-local entities. The Commission decided to open a window during which only local entities could apply, but after two years non-local entities could also apply for low power stations. We encouraged the Commission to retain the local entity requirement.

A comparison between the relative success of the LPFM service and the scandal surrounding the current implementation of translator licensing abundantly demonstrates that a service with a local entity standard is more successful and serves the public better. Prometheus Radio Project collected scores of articles praising the LPFM service and individual LPFM stations in the past 5 years. There is only a handful of news items regarding the translator service, and a large portion of these article are regarding the scandal connected to the March 2003 window. The difference in treatment in the news is indicative of the fact that LPFM stations are connecting with their communities and performing important local service on a scale far greater than what translators can do as repeater stations.

As a result, only local applicants should be eligible for applying for LFPM stations and translators. The LPFM local eligibility standard, which only allows

local organizations to apply for radio stations for the first two years of the service, should also apply to translator applicants. One benefit of a local eligibility standard for the translator service is that it could prevent many of the problems of massive speculative filings. There is little legitimate use of translator licenses for non-local entities. Since translator licensees have few restrictions upon them in terms of ownership, it is not unduly burdensome to require that applicants for translator licenses be a local entity committed to repeating local programming to that area.

B. Current Translator Licenses Should Not Receive Grandfathered Protection Rights and All Pending Translator Applications Should Be Thoroughly Reviewed For Speculative Filing

The Commission's licensing system should be based upon stations commitment to fulfilling local origination pledges, rather than based upon which service is older or which license was first obtained. Non-locally originating LPFM stations and translator should be given every reasonable opportunity to relocate and change frequency. Those LPFM stations and translators that fulfil the eight-hour local origination standard should be entirely immune to displacement from other LPFM stations or translators, and from full power stations.

The Commission opened the 2003 translator application window with insufficient safeguards in place to prevent speculation. As a result, some organizations took advantage of the window by filing a large portion of the applications without any connection to the communities specified in the applications and without meeting any local eligibility requirements. The Commission has a responsibility to allocate spectrum in the public interest and ~~in~~ by a means designed

to satisfy their goals of localism and diversity. Therefore, the expectations of the translator applicants in the 2003 window are immaterial and the Commission should employ whatever measures necessary to undo the unfortunate results of the wave of speculative filing that occurred in the 2003 window.

Several measures can be taken to correct the abuses in the 2003 window, without dismissing all pending applications for new FM translator stations. First, the Commission should investigate all applicants that filed more than ten (10) translators to ensure that these translators were filed with the intent to build, rather than to speculate. Any translator applicants that are found participating in the window for the purpose of speculation should have all applications dismissed and be forced to refund the money to the purchasers of the construction permit.

Second, all transfers of translator construction permits should be stopped immediately. Construction permits for translators and LPFMs should be non-transferable and there should be a holding period of three years of on-air operation before any transfer of license is possible.

C. LPFM and Translator Applicants That Meet the Standards of Local Origination and Local Eligibility Should Have Primary Status

LPFM stations that originate local content, meeting the local origination standard, should have precedence over distant translators, no matter who came first in time. The standard for primary status should be based upon local origination commitments.

The current LPFM standard for local origination is a good start.[15] Qualification for the privileges stemming from local origination commitments should be based upon programming produced within ten miles of the transmitter tower site.

For translators, the standard should be whether the originating full power station plays eight (8) hours or more per day of programming that was produced within the coverage area of the originating station repeating transmitter. In the past, the Commission has used measures, such as the main studio requirement, in order to ensure that full power stations produce programming that is relevant to their community of license. However, these provisions are not adequate to ensure that full power broadcasters are producing locally relevant programming. Today, "Full-Service" stations often use technologies, such as voice tracking, to produce programming. The main studio may be nothing more than a remotely controlled hard drive sitting in the offices of a radio cluster.

In response to the advent of these practices, we believe that the test for the spectral priority of translators should involve two factors. The first is each translator's proximity to their originating station. The second is whether their originating full power station can certify that they produce eight (8) hours of local programming or more per day. Local programming is programming that originated within the area covered by the station and its community of license translators.

---

[15] LPFM applicants that pledge to originate at least eight hours of local programming each day meet the current LPFM standard for local origination. 47 C.F.R. § 73.872(b)(3).

"Community-of-License" translators shall be defined in the next section.

A local origination privilege relating to a commitment to local public affairs programming, similar to what was established in low power TV class A status, would also be beneficial. Section 326 is not violated by specifying a requirement of three (3) hours per week of public affairs programming on those licensees who would like to receive a special local origination privilege.

While music programming can be important in supporting local culture, it is harder to specify with music programming what exactly constitutes local origination, since music is often played, produced, distributed through complicated networks. As a result, it is difficult to determine local origination standards for LPFM stations and translators primarily transmitting music programming. However, it is probably beyond the scope of the Commission's authority to specify anything on entertainment programming.

However, it does not contradict Section 326 to specify certain spectrum priorities for stations that agree to produce programming that serves the public interest. In fact, the Commission is mandated to make this type of evaluation by Sections 307 and 309, which state that the Commission must allocate the public airwaves in a way which best serves the public interest.[16] Therefore, in order to earn spectral priority over stations that are used purely for entertainment purposes, a station must commit to three (3) hours (during periods of reasonable, listenership, not between 11pm and 6 am) per week of local public affairs programming, rather

[16] 47 U.S.C. § 307 (2005); 47 U.S.C. § 309 (2005.

than entertainment programming. The privilege of priority licensing for broadcasters willing to make minimal commitments to service of the public interest does not set policy on a slippery slope of governmental determination of broadcasting content. For purposes of definition, we would suggest that locally originated public affairs programming should consist of:
1) talk programming relevant to issues of specifically (though not exclusively) local interest, and
2) during these three hours per week, should consist of no more than 15% music.

Any format of talk show, public affairs program, or news cast should easily meet this definition. This pledge of local origination, if the Commission decides to implement it, can be the second element of the local origination pledge for both Low Power and Full power stations.

Our proposal for the use of local origination as the standard upon which to base spectrum priority is not dependent on the incorporation of this standard. However, we believe that public service will be improved with the implementation of this recommendation. Since it is fully voluntary, with only spectrum priority for those who licensees who meet this standard, we believe it would be a valuable addition to the low power service.

D. To Determine Spectrum Priority, the Commission Should Distinguish Between Translator Classes

Prometheus Radio Project recommends a distinction between "community-of-license" translators and "expansion" translators. "Community-of-License" translators are those that have more than 50% of their coverage within the circle

that would have been the 1 mv contour of the full power station if there were no terrain obstructions. This definition leaves ample room for local extension coverage, without allowing exorbitant empires to be built.

If a full power station, associated with a "community-of-license" translator, meets the eight (8) hours per day standard of local origination necessary for preferential treatment, then the translator would be primary to any LPFM station. The only exception to this rule is that a new "community-of-license" translator can never displace an existing LPFM station that meets its' local origination standard.

If a full power station, associated with a "community-of-license" translator, does not meet the eight (8) hour per day standard of local origination, then the LPFM station will be primary to the translator so long as the LPFM station meets the eight (8) hour per day local origination standard.

If the translator is an "expansion" translator, regardless of whether the originating full power station meets the local origination standard, then the LPFM station will be primary to the translator so long as the LPFM station meets the eight (8) hour per day local origination standard.

LPFM stations that do not meet the eight (8) hours per day local origination standard should remain secondary to previously filed translators.

A translator that is both a "community of license" translator and repeats the signal of a full power station that meets the 8 hours of local origination standard could be defined as a "local translator," as referenced in other sections of this

document. These "Local Translators" would be the sole class of translators with spectral priority over all (except previously filed) LPFMs.

LPFMs which pledge local origination should be primary to those which do not. LPFMs threatened with displacement should be given an opportunity to make a local origination pledge in order to upgrade their spectral priority, if this could help their comparative position.

E. Stations Should Maintain a Website with a Schedule of Local Programming

In order to maintain the qualification for spectrum priority based on local origination, radio stations should be required to maintain a website with a schedule clearly indicating which of its programs are locally originated. This requirement would not be unduly burdensome since most LPFM stations already have websites with their program schedule on them. Adding an indication of locally produced programming and locally produced news or public affairs programming would require minimal effort.

Additionally, maintaining a website with a program schedule is generally valuable for radio stations even without a requirement for local origination rules. Creation of a simple website listing the station's programming would not create an exorbitant expense, nor would it be pointless or a lot of trouble for a station already producing locally originating programming.

A public website of this sort would make it very easy for the Commission to verify that the local requirement is met. Since the local origination privilege already requires certification of a commitment to produce locally originating

programming and the public website would serve as verification, enforcement would only be necessary if a complaint is filed by a member of the public which discovered that actual performance of the station differed from the promised performance. Additionally, those stations that list locally originating programs, which are not locally originated or do not actually exist, could be cited by the Commission for lack of candor.

In cases where no party is concerned with local origination, the Commission would not receive complaints and need not burden the staff with enforcement procedures. However, in cases where a group cannot obtain an LPFM license because of an LPFM station or translator failing to meet its local origination requirements, the group would have an opportunity to complain and trigger a more stringent review of the station's local origination.

F. No Entity Should Own More Than Twenty (20) Translator Licenses, and No Single Full or Low Power Station Should Be Rebroadcast More Than Twenty Times.

There is no legitimate use for any entity to own more than twenty (20) translator licenses. Legitimate uses by a statewide network should be able to accomplish statewide network coverage through the use of twenty (20) translator channels, plus the originating primary station. Similarly, no single station needs to be re-broadcast more than twenty (20) times. The public is not well served when the same programming is heard on many parts of the band, or when the few frequencies reserved for local use are usurped by satellite distributed programming. It is well within the scope of authority of the Commission to set reasonable limits on

the licensing of scarce available frequencies, and to make sure that there is the widest possible local distribution of these opportunities to broadcast.

The Commission should revise the translator ownership rules to read as follows: No entity shall own or have an attributable interest in more than twenty (20) translator stations, nationwide. No single radio station shall have its broadcast signal repeated more than twenty (20) times through the use of translators.

Appendix C

PROPOSAL FROM THE NATIONAL FEDERATION OF COMMUNITY BROADCASTERS AND OFFICE OF COMMUNICATION OF THE UNITED CHURCH OF CHRIST, INC. REGARDING RELATIVE SPECTRUM PRIORITY OF LPFMS AND TRANSLATORS

The National Federation of Community Broadcasters and the Office of Communication of the United Church of Christ support the RECNET proposals as follows:

Define a "distant translator." We are asking that the Commission define a "Distant Translator" as an FM Translator where the ultimate primary station (the station producing the programming) is in a different state and is at least 400 km from the FM Translator.

Define a "legacy translator." We take the RECnet position, that a "Legacy Translator" is:

a. a facility that had its application for an original construction permit filed prior to March 9, 2003

b. a facility whose application has been granted, and

c. a facility whose ultimate primary station was in the same state or in a different state but within 400 km of the translator as of March 17th, 2005.

LPFM Protections to FM Translators. Revise the rules that LPFM stations are only required to protect FM Translators that have been grandfathered as "legacy translators" following the guidelines shown above and in the RECnet filing.

Reclassify all other translators. Reclassify all translators not eligible for "legacy" status as sub-secondary to LPFM stations. LPFM applicants are not required to protect these sub-secondary stations but should make every effort to find a channel that would allow both the LPFM station and the non-protected FM translator to co-exist whenever possible.

Second adjacent channel protection of LPFM by translators. The Commission should consider applying a second adjacent channel protection to subsequently authorized translators to pub LPFM on a closer playing field to translators.