

Low Power Radio
Informational Meeting
June 10, 2004

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108TH CONGRESS
2D SESSION

S. 2505

To implement the recommendations of the Federal Communications Commission report to the Congress regarding low power FM service.

IN THE SENATE OF THE UNITED STATES

JUNE 4, 2004

Mr. MCCAIN (for himself and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To implement the recommendations of the Federal Communications Commission report to the Congress regarding low power FM service.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress makes the following findings:

5 (1) The passage of the Telecommunications Act
6 of 1996 led to increased ownership consolidation in
7 the radio industry.

8 (2) At a hearing before the Senate Committee
9 on Commerce, Science, and Transportation, on June

1 4, 2003, all 5 members of the Federal Communica-
2 tions Commission testified that there has been, in at
3 least some local radio markets, too much consolida-
4 tion.

5 (3) A commitment to localism—local oper-
6 ations, local research, local management, locally-
7 originated programming, local artists, and local news
8 and events—would bolster radio listening.

9 (4) Local communities have sought to launch
10 radio stations to meet their local needs. However,
11 due to the scarce amount of spectrum available and
12 the high cost of buying and running a large station,
13 many local communities are unable to establish a
14 radio station.

15 (5) In 2003, the average cost to acquire a com-
16 mercial radio station was more than \$2.5 million
17 dollars.

18 (6) In January, 2000, the Federal Communica-
19 tions Commission authorized a new, affordable com-
20 munity radio service called “low power FM” or
21 “LPFM” to “enhance locally focused community-ori-
22 ented radio broadcasting”.

23 (7) Through the creation of LPFM, the Com-
24 mission sought to “create opportunities for new
25 voices on the air waves and to allow local groups, in-

1 including schools, churches and other community-
2 based organizations, to provide programming respon-
3 sive to local community needs and interests”.

4 (8) The Commission made clear that the cre-
5 ation of LPFM would not compromise the integrity
6 of the FM radio band by stating, “We are com-
7 mitted to creating a low power FM radio service
8 only if it does not cause unacceptable interference to
9 existing radio service.”.

10 (9) Small rural broadcasters were particularly
11 concerned about a lengthy and costly interference
12 complaint process. Therefore, in September, 2000,
13 the Commission created a simple process to address
14 interference complaints regarding LPFM stations on
15 an expedited basis.

16 (10) In December, 2000, Congress delayed the
17 full implementation of LPFM until an independent
18 engineering study was completed and reviewed. This
19 delay was due to some broadcasters’ concerns that
20 LPFM service would cause interference in the FM
21 band.

22 (11) The delay prevented millions of Americans
23 from having a locally operated, community based
24 radio station in their neighborhood.

1 (12) Approximately 300 LPFM stations were
2 allowed to proceed despite the congressional action.
3 These stations are currently on the air and are run
4 by local government agencies, groups promoting arts
5 and education to immigrant and indigenous peoples,
6 artists, schools, religious organizations, environ-
7 mental groups, organizations promoting literacy, and
8 many other civically-oriented organizations.

9 (13) After 2 years and the expenditure of
10 \$2,193,343 in taxpayer dollars to conduct this
11 study, the broadcasters' concerns were demonstrated
12 to be unsubstantiated.

13 **SEC. 2. REPEAL OF PRIOR LAW.**

14 Section 632 of the Departments of Commerce, Jus-
15 tice, and State, the Judiciary, and Related Agencies Ap-
16 propriations Act, 2001 (Public Law 106-553; 114 Stat.
17 2762A–111), is repealed.

18 **SEC. 3. MINIMUM DISTANCE SEPARATION REQUIREMENTS.**

19 The Federal Communications Commission shall mod-
20 ify its rules to eliminate third-adjacent minimum distance
21 separation requirements between—

22 (1) low-power FM stations; and

23 (2) full-service FM stations, FM translator sta-
24 tions, and FM booster stations.

1 SEC. 4. PROTECTION OF RADIO READING SERVICES.

2 The Federal Communications Commission shall re-
3 tain its rules that provide third-adjacent channel protec-
4 tion for full-power non-commercial FM stations that
5 broadcast radio reading services via a subcarrier frequency
6 from potential low-power FM station interference.

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The Washington Post

McCain, Leahy Seek More Low-Power FM Stations

By Frank Ahrens
Washington Post Staff Writer
Saturday, June 5, 2004; Page E02

Two powerful senators are trying to open the airwaves for community radio stations, aiming to erase restrictions that prevent their rollout in urban areas.

Sens. John McCain (R-Ariz.) and Patrick J. Leahy (D-Vt.) introduced a bill yesterday to lift what they call unnecessary measures designed to prevent signal interference with other FM stations.

Known as "low-power FM stations," the tiny community stations usually have a range of about 3.5 miles. Authorized in 2000, the noncommercial stations are designed to serve highly localized communities.

A number are up and running in less-populated areas, including one in Maryland's Calvert County. Nationwide, more than 200 such stations are on the air. If the McCain-Leahy bill is enacted, as many as 1,000 more could be licensed, community-radio advocates estimate.

Low-power advocates have pushed hard to bring the stations into urban, often-poorer areas, saying that is where they are most needed

But their introduction into urban locations -- where the FM band is crowded with commercial frequencies -- is opposed by National Public Radio and the National Association of Broadcasters (NAB), the trade group of commercial radio stations, each of which maintains the low-power signals will interfere with existing FM stations.

At the urging of commercial broadcasters, Congress in 2000 imposed limits on the licensing of low-power stations, which the McCain-Leahy bill would eradicate. "After spending almost two years and over \$2 million, an independent study revealed what the [Federal Communications Commission] and community groups have said all along: Low-power FM radio will do no harm to other broadcasters," McCain said in a statement issued yesterday. The study cited by McCain -- a 2003 report on the likelihood of low-power radio interference prepared by Mitre Corp., a nonprofit technical research firm -- concluded community radio stations would not interfere with larger commercial stations. In February, the FCC told Congress no additional interference studies are needed.

The NAB disagrees.

"It is unfortunate Sen. McCain is relying on the deeply flawed Mitre study in supporting the authorization of more low-power FM stations," NAB President Edward O. Fritts said in a written statement. "Local radio listeners should not be subjected to the inevitable interference that would result from shoe-horning more stations onto an already overcrowded radio dial."

More than 3,400 community groups have applied for low-power licenses. Church groups account for about 40 percent of all granted licenses, the largest group of low-power broadcasters, according to the National Federation of Community Broadcasters.

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Foes Of Media Consolidation Champion Low-Power FM Bill

by [Molly M. Peterson](#), *CongressDaily*

Senate Commerce Chairman McCain's legislation to increase the number of radio frequencies available for small, low-power FM stations is drawing praise from interest groups that are fighting industry consolidation under the 1996 Telecommunications Act. "I don't think anyone who is concerned about media consolidation thinks low-power radio is a substitute for some of the other proposals that have been debated, but ... folks who disagree on the bigger media consolidation debate can easily agree that low-power radio is a good idea," Cheryl Leanza, deputy director of the Media Access Project, said today. "Low-power radio would certainly add some ! media diversity." Senate Judiciary ranking member **Patrick Leahy**, D-Vt., who is co-sponsoring McCain's bill, called low-power FM a "valuable counterpoint" to media consolidation. "Unfortunately, for many years now, the number of low-power FM stations the FCC could license has been limited by unrealistic and unnecessary rules requiring these small stations to find available frequencies far from any full power broadcaster," Leahy said.

The bill would eliminate those rules, which Congress imposed in 2000, shortly after the FCC began allowing nonprofit groups to broadcast on the FM band. Commercial broadcasters had argued that low-power FM stations, which generally reach an audience within about a 3.5 mile radius, would interfere with their signals. Josh Silver, managing director of the interest group Free Press, said McCain's bill "gives the important message that powerful media owners cannot continue to silence these vital local viewpoints with disingenuous and bogus claims of airwave interference." Silver said an expansion of low-power FM would increase diversity and give schools, churches and other community organizations a greater voice on the airwaves.

Leahy said that while "interference must be avoided" on the airwaves, the current low-power FM rules "go beyond what is necessary to protect full power stations from interference, and instead protect them from competition." McCain said the FCC and an independent study by the Mitre Group have concluded that allowing more low-power FM licenses will "do no harm" to other broadcasters. "This bill directly responds to recommendations by the FCC by removing any further delay in low-power FM radio implementation and eliminating the need for any further studies," McCain said. But the National Association of Broadcasters disagrees with those findings and strongly opposes McCain's bill. NAB President Edward Fritts said Friday that the Mitre Group study was flawed. "Local radio listeners should not be subjected to the inevitable interference that would result from shoehorning more stations onto an already overcrowded radio dial."



The newspaper about public TV and radio

Interference study finds room for more low-power FMs

Originally published in *Current*, Aug. 4, 2003

By Mike Janssen

Battling over low-power FM could resume with the release of a study that suggests permitting microstations closer to their full-power neighbors.

The study, conducted by the nonprofit tech research firm MITRE Corp. and released last month, recommends that the FCC license LPFM stations on third-adjacent channels to full-power stations--a prospect that once drew strong criticism from NPR and others in public radio.

Following that suggestion could engender many more of the tiny, low-wattage noncommercial stations. That would give more wannabe broadcasters access to the airwaves but also permit interference that could eat away at the fringes of public radio signals.

The FCC now keeps LPFMs certain land distances from full-power stations if they use third-adjacent frequencies--that is, frequencies within 0.6 megahertz. Following that rule reduces the number of potential LPFMs by 80 percent, according to the FCC.

The rule could be relaxed, the MITRE study says, "provided that relatively modest distance separations are maintained between any LPFM station and receivers tuned to the potentially affected LPFM station."

MITRE did not recommend waiving distance separations entirely. Instead, it devised a formula for determining spacing. Resulting distances could range from a kilometer to a "few tens of meters."

The FCC created the new class of stations in 2000 under Democratic Chairman Bill Kennard, who wanted to diversify media control. Based on its own research, the commission dropped the third-adjacent protections. Congress overruled the FCC in 2001, ordering it to uphold the protections. Low-power advocates complained that the reversal squeezed low-power signals out of larger markets. Congress ordered the agency to commission an independent interference study, hence the MITRE report.

As of late May, 113 LPFMs were licensed to broadcast, and more than 500 others have received construction permits preliminary to licensing, according to the National Federation of Community Broadcasters. Almost half of LPFM permits and licenses have gone to religious groups.

The FCC has almost finished processing uncontested applications and is preparing to settle mutually exclusive filings, says Cheryl Leanza, deputy director of the pro-LPFM Media Access Project.

Low-power stations are limited to using small, 100-watt--or even 10-watt--transmitters. (The FCC has not yet accepted applications for 10-watt stations.)

The introduction of the service prompted cheers from grassroots broadcasters but upset NPR and commercial broadcasters, who feared that the stations would interfere with their signals and radio reading services for the visually impaired. It remains to be seen how the MITRE study will reshape the debate.

The report discounts or plays down a number of interference worries:

- LPFM signals did not interfere with a radio reading service receiver as long as the transmitter and receiver were at least 80 meters apart.
- Stations transmitting digitally experienced no more interference from LPFMs than analog broadcasters.
- Interference "was not strongly correlated with variations in terrain or program material type." NPR had argued that quieter public radio fare such as news and classical music could be especially vulnerable to interference.

Tradeoff: regional or local?

Most stakeholders in the interference debate have yet to digest the complex, 308-page report. Some have handed it off to engineers for analysis. Reactions so far sound like echoes from the past, with established broadcasters advising caution and LPFM advocates upbeat and hopeful.

"The tests pretty much bore us out," says Pete Tridish of the Prometheus Radio Project, a Philadelphia group that lobbies for micropower broadcasting and has argued against third-adjacent protections for LPFMs.

But Prometheus and MITRE risk playing down the need for continued spacing of LPFMs, says Scott Hanley, g.m. of WDUQ in Pittsburgh and an NPR Board member. If the spacing formula is ignored, he says, LPFMs could knock out the service of full-power stations like his to "city blocks' worth" of urban listeners.

NPR declined comment on the study, but David Noble, chair of government affairs for the International Association of Audio Information Services, said he would still support third-adjacent protections based on his quick scan of the study.

One observer, however, has changed his mind since the advent of LPFM. Broadcast engineering consultant Doug Vernier, a now-retired Iowa pubradio manager, supported third-adjacent protections in 1999. Since then, experience with translators on second- and third-adjacent frequencies to full-power stations has proven to him that LPFM's current protections may be needlessly strict.

"There's, frankly, enough spectrum out there that third-adjacent aren't going to cause a significant problem to public radio at this point," he says. "I wouldn't have said that several years

ago, but I think that we have seen enough proof that radios are good enough today that it isn't a huge issue. The MITRE study is more proof of the pudding."

NPR and commercial broadcasters have argued that third-adjacent signals would interfere with reception within their FCC-protected geographic contours, Vernier says, but their greater fear is that LPFMs will obscure their signals in the lawless areas beyond the contours. They would lose distant listeners if more LPFMs are licensed and would have no recourse at the FCC.

"It's a tradeoff between what low-power can give a local area as to what a regional public radio station can give a regional area," he says.

In Vernier's view, looser rules won't hurt public radio, considering its growing audiences. "And I think there is a need for low-power, community-based stations," he says. "The question is, is there a need in one community for 20 of them?"--a scenario he says could occur without third-adjacent protections.

The FCC has asked for reply comments on the MITRE study by Sept. 12. The agency would have to win congressional approval to remove third-adjacent protections, raising the chance that the low-power debate could quickly become political again. Sen. John McCain (R-Ariz.), who championed LPFM in 2000, has already expressed interest in revisiting the issue, according to *Radio World*.

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Current

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Who will operate LPFM microstations?

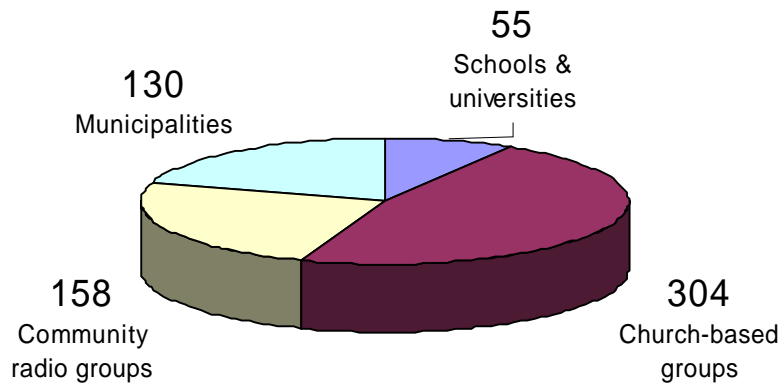


Figure 1

As of late May, this is the breakdown of **647** construction permits and licenses issues by the FCC, as tallied by the National Federation of Community Broadcasters. CPs are granted first; operators that follow through on plans can receive licenses.

EDITORIAL

Weak, Important Voices

Though its decisions influence what Americans hear and often what they think, the Federal Communications Commission is as invisible to most Americans as the airwaves it is supposed to ensure are operated in the public interest.

That may explain why a study released last week, showing that low-power FM stations don't interfere with the signals of high-powered ones, didn't make headlines. Congress, though, should take note of this study and move quickly to allow small, community-based stations on the airwaves, despite opposition from media giants.

It has been four years since then-FCC Chairman William Kennard decided to authorize hundreds of ultra-low-power FM stations (each with a broadcast radius of about 3.5 miles) to provide genuinely local alternatives to the centralized programming that has dominated the airwaves since Congress deregulated the industry in 1996.

Applications poured in from such groups as the Second Samon Congregational Church in Newport Beach, the Center for Peace in Santa Rosa and a Boys and Girls Club in Madison, Wis.

Kennard's plan was scuttled after intense lobbying from the National Assn. of Broadcasters. In a back-room congressional hearing one year after Kennard's announcement, legislators barred the FCC from allowing most of the stations until a congressionally appointed panel could evaluate the industry group's unsubstantiated claim that the low-powered stations would interfere with the signals of their high-powered competitors.

Last week, that study concluded that there were no interference problems and no reason to delay the smaller stations. The influential broadcasters association now claims the study's methodology was "deeply flawed" — even though the group helped design it.

The FCC's current commissioner, Michael Powell, supports the roll-out but is powerless without explicit authority from Congress and President Bush. Sen. John McCain (R-Ariz.) plans to introduce legislation to give Powell that authority. Congress should swiftly pass the bill, recognizing what the new study makes clear: The threat to high-powered stations comes from legitimate community competition, not from signal interference.

As Cheryl Leanza, a lobbyist for the nonprofit Media Access Project and a longtime advocate of decentralized media, puts it: "The fact that we have to fight for something so small, innocuous and obviously good is unfortunately indicative of the policy debate we're facing today in Washington."

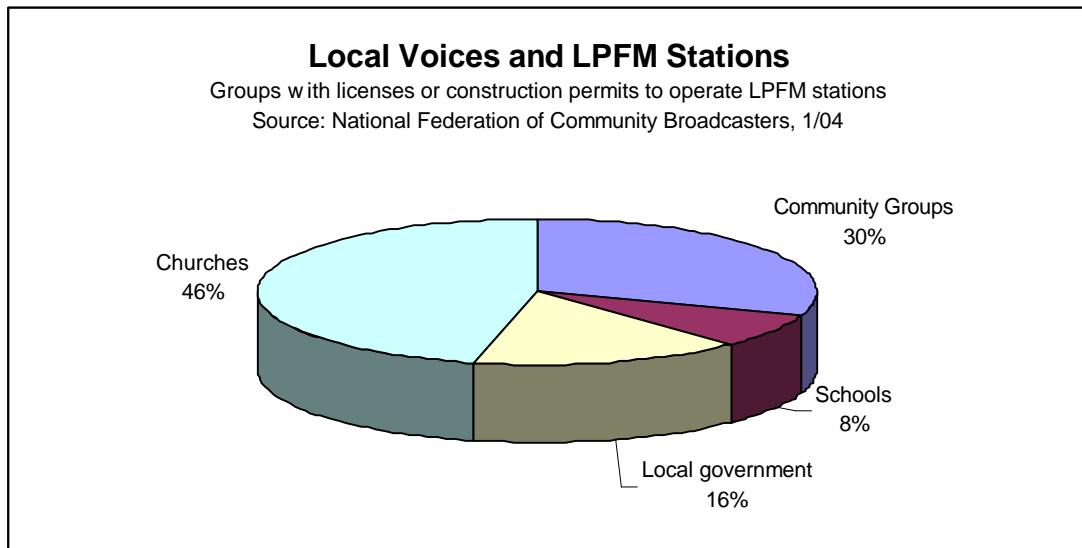
Low-power FM may be merely a fig leaf to cover up the media consolidation that the FCC and Congress have permitted. But its power as a democratic beacon cannot be denied — no matter how low its wattage.

**Media Access Project | Future of Music Coalition
Free Press | Prometheus Radio Project**

Low Power Radio – Empowering Local Voices

LPFM stations are serving the community – increasing diversity in programming, serving minority communities, serving local needs and enhancing public affairs discussion:

- WEES 107.9 in Ocean City, MD, operated by the Edinboro Early School creates the feel of a 1950s station. In addition to music from that period, the station airs family-oriented programming, including three hours of programming for children ages 3 to 5.
- KOCZ 103.7 in Opelousas, LA is operated by the Southern Development Foundation, a community development organization active in the African-American community. The station broadcasts public affairs shows, religious programming and zydeco music.
- Frogtown Community Radio in Frogtown, GA, broadcasts 24 hours a day in English and Cherokee on WFNG 100.5. Programming focuses on history, culture and current activities of the Frogtown community and Lumpkin County.
- In Immokalee, FL, the Coalition of Immokalee Workers, a group of immigrant farm workers from Mexico, Central America and the Caribbean, recently launched WCTI 107.9, which airs news and programming in Spanish, Creole and indigenous languages such as Zapotec and Quiche to serve the community’s unique needs.
- KRBS in Oroville, CA, operated by the Bird Street Media Project, uses a variety format to highlight the small town’s diversity and serve local needs, airing two shows on veteran’s issues, radio theater, children’s stories, and a wide variety of music. Organizers of KRBS see it as a key part of efforts to serve the local community, especially since Clear Channel recently bought the town’s only full-power radio station, dismantled it and moved the license elsewhere.
- WRYR 97.5 in the Chesapeake Bay area in Maryland, operated by South Arundel Citizens for Responsible Development, was the only station to gather all of the local candidates for an election debate during a recent campaign.



<<June XX, 2004>>

Dear Senator:

We are writing to urge you to support localism and diversity in the media by allowing the expansion of low power FM (LPFM) radio and becoming a co-sponsor of S.2505, introduced by Sen. John McCain (R-AZ) and Sen. Patrick Leahy (D-VT).

Under the LPFM service, approved by the Federal Communications Commission in January 2000, noncommercial local voices – such as schools, churches and community groups – receive licenses to operate 10- and 100-watt radio stations. In communities around the country, LPFM stations are providing a broad range of programming – allowing local musicians to be heard, broadcasting in multiple languages, airing programming for children, providing airtime for local public debates, and much more.

However, hundreds of applicants – especially those in urban areas – have been denied licenses because of restrictions that Congress placed on the service with the Radio Broadcasting Preservation Act, passed as part of a larger spending package in December 2000. Congress placed strict technical limits on the LPFM service and required the FCC to procure an independent study regarding the possibility of interference with existing stations.

The congressionally mandated independent study has now been completed, after a cost to taxpayers of more than \$2 million, and its authors have concluded that interference concerns are unwarranted. The FCC endorsed the study's recommendations that Congress lift its restrictions on the LPFM service. Doing so would allow the agency to authorize more efficient use of spectrum by expanding this important, community-based service.

Such a move would allow scores of communities to take advantage of the LPFM service, and would respond to strong citizen interest – evidenced in the recent debates – in having greater diversity and localism on the publicly owned airwaves and an additional alternative to crass, overly commercialized radio programs. We urge you to take action to support this valuable community service. Thank you.

Sincerely,



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