

109TH CONGRESS
1ST SESSION

S. 312

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

FEBRUARY 8, 2005

Mr. MCCAIN (for himself, Ms. CANTWELL, 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. SHORT TITLE.**

4 This Act may be cited as the “Local Community
5 Radio Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) The passage of the Telecommunications Act
2 of 1996 led to increased ownership consolidation in
3 the radio industry.

4 (2) At a hearing before the Senate Committee
5 on Commerce, Science, and Transportation, on June
6 4, 2003, all 5 members of the Federal Communica-
7 tions Commission testified that there has been, in at
8 least some local radio markets, too much consolida-
9 tion.

10 (3) A commitment to localism—local oper-
11 ations, local research, local management, locally-
12 originated programming, local artists, and local news
13 and events—would bolster radio listening.

14 (4) Local communities have sought to launch
15 radio stations to meet their local needs. However,
16 due to the scarce amount of spectrum available and
17 the high cost of buying and running a large station,
18 many local communities are unable to establish a
19 radio station.

20 (5) In 2003, the average cost to acquire a com-
21 mercial radio station was more than \$2,500,000.

22 (6) In January, 2000, the Federal Communica-
23 tions Commission authorized a new, affordable com-
24 munity radio service called “low-power FM” or

1 “LPFM” to “enhance locally focused community-ori-
2 ented radio broadcasting”.

3 (7) Through the creation of LPFM, the Com-
4 mission sought to “create opportunities for new
5 voices on the air waves and to allow local groups, in-
6 cluding schools, churches, and other community-
7 based organizations, to provide programming respon-
8 sive to local community needs and interests”.

9 (8) The Commission made clear that the cre-
10 ation of LPFM would not compromise the integrity
11 of the FM radio band by stating, “We are com-
12 mitted to creating a low-power FM radio service only
13 if it does not cause unacceptable interference to ex-
14 isting radio service.”.

15 (9) Currently, FM translator stations can oper-
16 ate on the second- and third-adjacent channels to
17 full power radio stations, up to an effective radiated
18 power of 250 watts, pursuant to part 74 of title 47,
19 Code of Federal Regulations, using the very same
20 transmitters that LPFM stations will use. The FCC
21 based its LPFM rules on the actual performance of
22 these translators that already operate without undue
23 interference to FM stations. The actual interference
24 record of these translators is far more useful than
25 any results that further testing could yield.

1 (10) Small rural broadcasters were particularly
2 concerned about a lengthy and costly interference
3 complaint process. Therefore, in September, 2000,
4 the Commission created a simple process to address
5 interference complaints regarding LPFM stations on
6 an expedited basis.

7 (11) In December, 2000, Congress delayed the
8 full implementation of LPFM until an independent
9 engineering study was completed and reviewed. This
10 delay was due to some broadcasters' concerns that
11 LPFM service would cause interference in the FM
12 band.

13 (12) The delay prevented millions of Americans
14 from having a locally operated, community based
15 radio station in their neighborhood.

16 (13) Approximately 300 LPFM stations were
17 allowed to proceed despite the congressional action.
18 These stations are currently on the air and are run
19 by local government agencies, groups promoting arts
20 and education to immigrant and indigenous peoples,
21 artists, schools, religious organizations, environ-
22 mental groups, organizations promoting literacy, and
23 many other civically-oriented organizations.

24 (14) After 2 years and the expenditure of
25 \$2,193,343 in taxpayer dollars to conduct this

1 study, the broadcasters' concerns were demonstrated
2 to be unsubstantiated.

3 **SEC. 3. REPEAL OF PRIOR LAW.**

4 Section 632 of the Departments of Commerce, Jus-
5 tice, and State, the Judiciary, and Related Agencies Ap-
6 propriations Act, 2001 (Public Law 106–553; 114 Stat.
7 2762A–111), is repealed.

8 **SEC. 4. MINIMUM DISTANCE SEPARATION REQUIREMENTS.**

9 The Federal Communications Commission shall mod-
10 ify its rules to eliminate third-adjacent minimum distance
11 separation requirements between—

12 (1) low-power FM stations; and

13 (2) full-service FM stations, FM translator sta-
14 tions, and FM booster stations.

15 **SEC. 5. PROTECTION OF RADIO READING SERVICES.**

16 The Federal Communications Commission shall re-
17 tain its rules that provide third-adjacent channel protec-
18 tion for full-power non-commercial FM stations that
19 broadcast radio reading services via a subcarrier frequency
20 from potential low-power FM station interference.

21 **SEC. 6. ENSURING AVAILABILITY OF SPECTRUM FOR LPFM**
22 **STATIONS.**

23 The Federal Communications Commission when li-
24 censing FM translator stations shall ensure—

- 1 (1) that licenses are available to both FM
2 translator stations and low-power FM stations; and
3 (2) that such decisions are made based on the
4 needs of the local community.

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