

111TH CONGRESS
1ST SESSION

H. R. 1147

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 2009

Mr. DOYLE (for himself, Mr. TERRY, Ms. ESHOO, Ms. ZOE LOFGREN of California, Mr. WILSON of South Carolina, Ms. KILPATRICK of Michigan, Mr. HASTINGS of Florida, Ms. MOORE of Wisconsin, Mr. PAUL, Mr. BRADY of Pennsylvania, Mr. TIM MURPHY of Pennsylvania, Ms. SCHWARTZ, Mr. PAYNE, Mr. HINOJOSA, Mr. JOHNSON of Illinois, Mr. DELAHUNT, Mr. CAPUANO, Mrs. McMORRIS RODGERS, Mrs. BLACKBURN, and Ms. BALDWIN) introduced the following bill; which was referred to the Committee on Energy and Commerce

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 2009”.

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) As a result of consolidation of media owner-
11 ship, there have been strong financial incentives for
12 companies to reduce local programming and rely in-
13 stead on syndicated programming produced for hun-
14 dreds of stations. A renewal of commitment to local-
15 ism—local operations, local research, local manage-
16 ment, locally originated programming, local artists,
17 and local news and events—would bolster radio’s
18 service to the public.

19 (4) Local communities have sought to launch
20 radio stations to meet their local needs. However,
21 due to the scarce amount of spectrum available and
22 the high cost of buying and running a large station,
23 many local communities are unable to establish a
24 radio station.

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

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

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

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

20 (9) Currently, FM translator stations can oper-
21 ate on the second- and third-adjacent channels to
22 full power radio stations, up to an effective radiated
23 power of 250 watts, pursuant to part 74 of title 47,
24 Code of Federal Regulations, using the very same
25 transmitters that LPFM stations will use. The Com-

1 mission based its LPFM rules on the actual per-
2 formance of these translators that already operate
3 without undue interference to FM stations. The ac-
4 tual interference record of these translators is far
5 more useful than any results that further testing
6 could yield.

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

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

19 (12) The delay prevented millions of Americans
20 from having a locally operated, community-based
21 radio station in their neighborhood.

22 (13) Over 800 LPFM stations were allowed to
23 proceed despite the congressional action. These sta-
24 tions are currently on the air and are run by local
25 government agencies, groups promoting arts and

1 education to immigrant and indigenous peoples, art-
2 ists, schools, religious organizations, environmental
3 groups, organizations promoting literacy, and many
4 other civically oriented organizations.

5 (14) After 2 years and the expenditure of
6 \$2,193,343 in taxpayer dollars to conduct this
7 study, the broadcasters' concerns were demonstrated
8 to be unsubstantiated.

9 (15) The FCC issued a report to Congress on
10 February 19, 2004, which stated that "Congress
11 should readdress this issue and modify the statute to
12 eliminate the third-adjacent channel distance separa-
13 tion requirement for LPFM stations."

14 (16) On November 27, 2007, the FCC again
15 unanimously affirmed LPFM, stating in a news re-
16 lease about the passage of the Third Report and
17 Order and Second Notice of Proposed Rulemaking
18 that the Commission: "Recommends to Congress
19 that it remove the requirement that LPFM stations
20 protect full-power stations on operating on the third-
21 adjacent channels." Five years after the release of
22 the FCC's report and recommendation, this rec-
23 ommendation has still not been acted upon.

24 (17) Minorities represent almost a third of our
25 population. However, according to the Federal Com-

1 munication Commission's most recent Form 323
2 data on the race and gender of full power, commer-
3 cial broadcast licensees, minorities own only 7 per-
4 cent of all local television and radio stations. Women
5 represent more than half of the population, but own
6 only 6 percent of all local television and radio sta-
7 tions. LPFM stations, while not a solution to the
8 overall inequalities in minority and female broadcast
9 ownership, provide an additional opportunity for
10 underrepresented communities to operate a station
11 and provide local communities with a greater diver-
12 sity of viewpoints and culture.

13 (18) LPFM stations have proven to be a vital
14 source of information during local or national emer-
15 gencies. Out of the few stations that were able to
16 stay online during Katrina, several were LPFM sta-
17 tions. In Bay St. Louis, Mississippi, LPFM station
18 WQRZ remained on the air during Hurricane
19 Katrina and served as the Emergency Operations
20 Center for Hancock County. Additionally, after Hur-
21 ricane Katrina when thousands of evacuees tempo-
22 rarily housed at the Houston Astrodome were unable
23 to hear information about the availability of food
24 and ice, the location of FEMA representatives, and
25 the whereabouts of missing loved ones over the loud

1 speakers, volunteers handed out thousands of tran-
2 sistor radios and established a LPFM station out-
3 side the Astrodome to broadcast such information.

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

5 Section 632 of the Departments of Commerce, Jus-
6 tice, and State, the Judiciary, and Related Agencies Ap-
7 propriations Act, 2001 (Public Law 106–553; 114 Stat.
8 2762A–111), is repealed.

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

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

13 (1) low-power FM stations; and

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

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

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

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

24 The Federal Communications Commission when li-
25 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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