

Calendar No. 310111TH CONGRESS
2^D SESSION**S. 592****[Report No. 111-160]**

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

MARCH 12, 2009

Ms. CANTWELL (for herself, Mr. MCCAIN, Mr. LEAHY, Mr. DURBIN, Mr. FEINGOLD, Mr. SCHUMER, Mr. SANDERS, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

MARCH 9, 2010

Reported by Mr. ROCKEFELLER, with an amendment

[Strike all after the enacting clause and insert the part printed in italic]

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Local Community
3 Radio Act of 2009”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

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

9 (2) At a hearing before the Senate Committee
10 on Commerce, Science, and Transportation, on June
11 4, 2003, all 5 members of the Federal Communica-
12 tions Commission testified that there has been, in at
13 least some local radio markets, too much consolida-
14 tion.

15 (3) A commitment to localism—local oper-
16 ations, local research, local management, locally
17 originated programming, local artists, and local news
18 and events—would bolster radio listening.

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.

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

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

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

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

18 (9) Currently, FM translator stations can oper-
19 ate on the second- and third-adjacent channels to
20 full power radio stations, up to an effective radiated
21 power of 250 watts, pursuant to part 74 of title 47,
22 Code of Federal Regulations, using the very same
23 transmitters that LPPFM stations will use. The Com-
24 mission based its LPPFM rules on the actual per-
25 formance of these translators that already operate

1 without undue interference to FM stations. The ac-
2 tual interference record of these translators is far
3 more useful than any results that further testing
4 could yield.

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

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

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

20 (13) Over 500 LPFM stations were allowed to
21 proceed despite the congressional action. These sta-
22 tions are currently on the air and are run by local
23 government agencies, groups promoting arts and
24 education to immigrant and indigenous peoples, art-
25 ists, schools, religious organizations, environmental

1 groups, organizations promoting literacy, and many
2 other civically oriented organizations.

3 (14) After 2 years and the expenditure of
4 \$2,193,343 in taxpayer dollars to conduct this
5 study, the broadcasters' concerns were demonstrated
6 to be unsubstantiated.

7 (15) Minorities represent almost a third of our
8 population. However, according to the Federal Com-
9 munication Commission's most recent Form 323
10 data on the race and gender of full power, commer-
11 cial broadcast licensees, minorities own only 7 per-
12 cent of all local television and radio stations. Women
13 represent more than half of the population, but own
14 only 6 percent of all local television and radio sta-
15 tions. LPFM stations, while not a solution to the
16 overall inequalities in minority and female broadcast
17 ownership, provide an additional opportunity for
18 underrepresented communities to operate a station
19 and provide local communities with a greater diver-
20 sity of viewpoints and culture.

21 (16) LPFM stations have proven to be a vital
22 source of information during local or national emer-
23 gencies. Out of the few stations that were able to
24 stay online during Katrina, several were LPFM sta-
25 tions. In Bay St. Louis, Mississippi, LPFM station

1 WQRZ remained on the air during Hurricane
 2 Katrina and served as the Emergency Operations
 3 Center for Hancock County. Additionally, after Hur-
 4 ricane Katrina when thousands of evacuees tempo-
 5 rarily housed at the Houston Astrodome were unable
 6 to hear information about the availability of food
 7 and ice, the location of FEMA representatives, and
 8 the whereabouts of missing loved ones over the loud
 9 speakers, volunteers handed out thousands of tran-
 10 sistor radios and established a LPFM station out-
 11 side the Astrodome to broadcast such information.

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

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

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

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

- 21 (1) low-power FM stations; and
- 22 (2) full-service FM stations, FM translator sta-
 23 tions, and FM booster stations.

1 **SEC. 5. 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.

7 **SEC. 6. ENSURING AVAILABILITY OF SPECTRUM FOR LPFM**
 8 **STATIONS.**

9 The Federal Communications Commission when li-
 10 censing FM translator stations shall ensure—

11 (1) that licenses are available to both FM
 12 translator stations and low-power FM stations; and

13 (2) that such decisions are made based on the
 14 needs of the local community.

15 **SECTION 1. SHORT TITLE.**

16 *This Act may be cited as the “Local Community Radio*
 17 *Act of 2009”.*

18 **SEC. 2. FINDINGS.**

19 *Congress makes the following findings:*

20 (1) *The passage of the Telecommunications Act*
 21 *of 1996 led to increased ownership consolidation in*
 22 *the radio industry.*

23 (2) *At a hearing before the Senate Committee on*
 24 *Commerce, Science, and Transportation, on June 4,*
 25 *2003, all 5 members of the Federal Communications*

1 *Commission testified that there has been, in at least*
2 *some local radio markets, too much consolidation.*

3 *(3) A commitment to localism—local operations,*
4 *local research, local management, locally originated*
5 *programming, local artists, and local news and*
6 *events—would bolster radio listening.*

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

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

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16 *tions Commission authorized a new, affordable com-*
17 *munity radio service called “low-power FM” or*
18 *“LPFM” to “enhance locally focused community-ori-*
19 *ented radio broadcasting”.*

20 *(7) Through the creation of LPFM, the Commis-*
21 *sion sought to “create opportunities for new voices on*
22 *the air waves and to allow local groups, including*
23 *schools, churches, and other community-based organi-*
24 *zations, to provide programming responsive to local*
25 *community needs and interests”.*

1 (8) *The Commission made clear that the creation*
2 *of LPFM would not compromise the integrity of the*
3 *FM radio band by stating, “We are committed to cre-*
4 *ating a low-power FM radio service only if it does*
5 *not cause unacceptable interference to existing radio*
6 *service.”.*

7 (9) *Currently, FM translator stations can oper-*
8 *ate on the second- and third-adjacent channels to full*
9 *power radio stations, up to an effective radiated*
10 *power of 250 watts, pursuant to part 74 of title 47,*
11 *Code of Federal Regulations, using the very same*
12 *transmitters that LPFM stations will use. The Com-*
13 *mission based its LPFM rules on the actual perform-*
14 *ance of these translators that already operate without*
15 *undue interference to FM stations. The actual inter-*
16 *ference record of these translators is far more useful*
17 *than any results that further testing could yield.*

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19 *concerned about a lengthy and costly interference*
20 *complaint process. Therefore, in September, 2000, the*
21 *Commission created a simple process to address inter-*
22 *ference complaints regarding LPFM stations on an*
23 *expedited basis.*

24 (11) *In December 2000, Congress delayed the full*
25 *implementation of LPFM until an independent engi-*

1 *neering study was completed and reviewed. This delay*
2 *was due to some broadcasters' concerns that LPFM*
3 *service would cause interference in the FM band.*

4 (12) *The delay prevented millions of Americans*
5 *from having a locally operated, community based*
6 *radio station in their neighborhood.*

7 (13) *Over 500 LPFM stations were allowed to*
8 *proceed despite the congressional action. These sta-*
9 *tions are currently on the air and are run by local*
10 *government agencies, groups promoting arts and edu-*
11 *cation to immigrant and indigenous peoples, artists,*
12 *schools, religious organizations, environmental*
13 *groups, organizations promoting literacy, and many*
14 *other civically oriented organizations.*

15 (14) *After 2 years and the expenditure of*
16 *\$2,193,343 in taxpayer dollars to conduct this study,*
17 *the broadcasters' concerns were demonstrated to be*
18 *unsubstantiated.*

19 (15) *Minorities represent almost a third of our*
20 *population. However, according to the Federal Com-*
21 *munication Commission's most recent Form 323 data*
22 *on the race and gender of full power, commercial*
23 *broadcast licensees, minorities own only 7 percent of*
24 *all local television and radio stations. Women rep-*
25 *resent more than half of the population, but own only*

1 6 percent of all local television and radio stations.
2 LPFM stations, while not a solution to the overall in-
3 equalities in minority and female broadcast owner-
4 ship, provide an additional opportunity for underrep-
5 resented communities to operate a station and pro-
6 vide local communities with a greater diversity of
7 viewpoints and culture.

8 (16) LPFM stations have proven to be a vital
9 source of information during local or national emer-
10 gencies. Out of the few stations that were able to stay
11 online during Katrina, several were LPFM stations.
12 In Bay St. Louis, Mississippi, LPFM station WQRZ
13 remained on the air during Hurricane Katrina and
14 served as the Emergency Operations Center for Han-
15 cock County. Additionally, after Hurricane Katrina
16 when thousands of evacuees temporarily housed at the
17 Houston Astrodome were unable to hear information
18 about the availability of food and ice, the location of
19 FEMA representatives, and the whereabouts of miss-
20 ing loved ones over the loud speakers, volunteers hand-
21 ed out thousands of transistor radios and established
22 a LPFM station outside the Astrodome to broadcast
23 such information.

1 **SEC. 3. MODIFICATION OF PRIOR LAW REGARDING LOW-**
 2 **POWER FM RADIO STATIONS.**

3 *Section 632 of the Departments of Commerce, Justice,*
 4 *and State, the Judiciary, and Related Agencies Appropria-*
 5 *tions Act, 2001 (Public Law 106-553; 114 Stat. 2762A-*
 6 *111), is amended to read as follows:*

7 *“SEC. 632. The Federal Communications Commission*
 8 *shall modify the rules authorizing the operation of low-*
 9 *power FM radio stations, as proposed in MM Docket No.*
 10 *99-25, to prohibit any applicant from obtaining a low-*
 11 *power FM license if the applicant has engaged in any man-*
 12 *ner in the unlicensed operation of any station in violation*
 13 *of section 301 of the Communications Act of 1934 (47*
 14 *U.S.C. 301).”.*

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

16 *The Federal Communications Commission shall mod-*
 17 *ify its rules to eliminate third-adjacent minimum distance*
 18 *separation requirements between—*

19 *(1) low-power FM stations; and*

20 *(2) full-service FM stations, FM translator sta-*
 21 *tions, and FM booster stations.*

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

23 *The Federal Communications Commission shall retain*
 24 *its rules that provide third-adjacent channel protection for*
 25 *full-power non-commercial FM stations that broadcast*

1 *radio reading services via a subcarrier frequency from po-*
2 *tential low-power FM station interference.*

3 **SEC. 6. ENSURING AVAILABILITY OF SPECTRUM FOR LPFM**
4 **STATIONS.**

5 *The Federal Communications Commission when li-*
6 *censing FM translator stations shall ensure—*

7 *(1) that licenses are available to both FM trans-*
8 *lator stations and low-power FM stations; and*

9 *(2) that such decisions are made based on the*
10 *needs of the local community.*

11 **SEC. 7. FCC STUDY ON IMPACT OF LPFM ON FULL-POWER**
12 **COMMERCIAL FM STATIONS.**

13 *The Federal Communications Commission shall con-*
14 *duct an economic study on the impact that low-power FM*
15 *stations will have on full-power commercial FM stations.*

16 **SEC. 8. FEDERAL COMMUNICATIONS COMMISSION RULES.**

17 *The Federal Communications Commission shall retain*
18 *its rules that provide third-adjacent channel protection for*
19 *full-power FM stations that are licensed in significantly*
20 *populated States with more than 3,000,000 housing units*
21 *and a population density greater than 1,000 per square*
22 *mile land area.*

Calendar No. 310

11TH CONGRESS
2^D SESSION

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[Report No. 111-160]

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