

**Testimony of
United Church of Christ, Office of Communication, Inc.
Prometheus Radio Project
National Federation of Community Broadcasters**

**Submitted to the
House Energy and Commerce Committee
Subcommittee on Communications, Technology, and the Internet**

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Chairman Boucher, Ranking Member Stearns and members of the Subcommittee, thank you for the opportunity to testify before you. I appear today speaking on behalf of just a few of the hundreds of organizations that support full implementation of low power radio to encourage this Subcommittee to move the Local Community Radio Act of 2009, H.R. 1147. For the last fifty years, the United Church of Christ media justice advocacy arm has been working to ensure we have a media as diverse as America and accountable to the communities they serve. The Prometheus Radio Project is the premier advocate in the country for low power radio broadcasters and those hoping to become broadcasters. The National Federation of Community Broadcasters represents over 200 noncommercial radio stations in almost every state in the union, DC and Puerto Rico.

As the committee is well aware, in the year 2000, the Federal Communications Commission conceived of a new implementation of an old idea – distribution of low power radio stations to community groups across the country. This reopened the airwaves to allow for local FM broadcasting after a 20-year hiatus. Today there are approximately 800 local, low power radio stations on the air. Although we have stations all across the country, demonstrating the need and interest in this opportunity, we also are facing a serious limitation. Currently, the FCC is not allowed to fully implement the low power radio service. This limitation has the effect of reducing the number of stations available, particularly in the top fifty markets in this country.

Low power radio is an extraordinary service. Churches, community groups, civic organizations, local governments, high schools, civil rights chapters and many others are currently running radio stations around the country. These radio stations reach out five to seven miles in diameter on the regular FM dial. They broadcast at 100 watts – the same power as a light bulb. Because low power radio stations use simple technology they are extremely inexpensive to operate – they are easily within the reach of smaller organizations. But these stations are high in impact. Not only is radio a powerful medium, but a medium whose power is intensified when its listeners recognize their own community on the airwaves. This is radio that speaks directly to the questions and concerns of the day, unfiltered through large corporate entities or boardroom decisions. Instead, community organizations and volunteers put blood, sweat and tears into the daily effort of bringing the culture, news, and local events to their towns and neighborhoods.

Unfortunately, thus far the story of low power radio has been a classic example of when government needs to get out of the way. Low power radio is a chance to breathe new life into an industry that could use a spur from innovation and new thinking. Commercial radio has been bleeding listeners and facing declines in revenue. And low power radio is positioned exactly in the sweet spot where we have seen radio succeeding – in the noncommercial service with smaller, locally targeted stations. Tens of thousands of listeners around the country are waiting to hear new life and a different sound emanating from their radios. Congress can make it happen.

Stations Fill Every Niche Around the Country

Low power radio stations are all around the country and fill a wide range of needs for their audience. Although there has not been much detailed study of low power radio, we know that generally 40 percent of the stations belong to religious institutions and 40 percent belong to other types of nonprofits. Just under 10 percent are at colleges and universities and just under another 10 percent are at K-12 schools.¹

There are stations serving a wide range of educational institutions. Roanoke College in Salem VA, broadcasts on WRKE-LP 100.3 live on campus, and is run entirely by students. In Ocean City, MD, the preschool program at Edinboro Early School sponsors WEES-LP, which offers a family oriented old time radio format with music from the 1950-1960s.

Local music and culture find outlets on low power radio stations in a way that is just not possible on larger stations. In West Virginia, WYAP-LP plays the old-time music native to the area. Before WYAP-LP, the 342 square miles of rural mountainous terrain was without a local source of information. The senior citizen and high school volunteer staff the station 24 hours per day 365 days a year. In Opelousas, Louisiana, zydeco music– once vanished from the airwaves of the region that it created it – is broadcast from the 100-watt KOCZ-LP.

¹ Philip Daniel Goetz, *Low Power FM Broadcasting: A Survey Snapshot of the Field*, University of Texas at Austin at p. 18 (2006).

American Indians, who are some of the most underserved by radio have benefited from low power radio. Radio provides a particularly good medium to preserve Indian culture such as oral histories and languages spoken by native people. The Pascua Yaqui tribe in Tucson, Arizona runs KYPT-LP at 100.3 with an all volunteer staff. KCUW-LP is the Umatilla reservation station in Pendleton, Oregon. One illustrative example of their unique programming is a live performance by the Nixyaawii Community School Eagle Boyz Drum group.

In Ringgold Georgia, WBFC-LP airs 24 hours per day of Gospel under the tag-line “We Broadcast for Christ.” Much of its programming is Southern gospel music. This religious educational programming includes programming from National Right To Life, and Legal Alert created by the Christian Law Association. In Estes Park, CO, KREV-LP a Gift from the United Methodist Church of Estes Park, operates on \$20 per day. In Chanute Kansas, the FireEscape Coffeehouse is an interfaith Christian youth group. Conceived of and created by young people themselves, the Coffeehouse is a safe place to socialize, drink cappuccino, hang with their friends and bring in Christian bands for entertainment and evangelization. It opened the doors in July 1998 with its first concert with Nashville-based Christian rock group, “Polarboy.” A perfect compliment to this ministry is their low power FM radio station, KFEX-LP 93.1, FireEscape Radio, which plays the bands and offers outreach to the local area.

A League of United Latin American Citizens (LULAC) chapter in South Bend, Indiana is the proud licensee of WSBL-LP (98.1). WSBL is, according to its mission statement, “focused on serving the Hispanic community of St. Joseph County by providing information, motivation and educational radio programming in an entertaining format.” When WSBL-LP began its Spanish-language broadcast in September 2002, the community not only heard traditional and contemporary Hispanic music but also received English-language vocabulary lessons during the breaks. WSBL-LP regularly runs public service announcements for early-childhood vaccinations, prostate cancer testing, and HIV screenings, and can measure the results. “The statistics at local clinics jumped from last year to this,” says Eliud Villanueva, director of WSBL-LP. “We have really made a difference, and that surprised us more than anyone else.”

Some organizations are still waiting for their chance.

During Hurricane Frances, in 2004, local officials in Citrus County Florida were so frustrated with their inability to get appropriate emergency coverage for that they were considering obtaining a low power FM radio station. Because their community is within the Tampa Bay market, more populous counties like Pinellas, Hillsborough, Pasco counties were covered and Citrus County was ignored, leaving residents unable to get accurate information when they needed it.²

The Mbaise Cultural Union, which has done critical work with Nigerian immigrants in Houston, would have benefited greatly from a Low Power FM addressing the community's issues and needs – and could have been a critical source of information during the recent hurricane. The FCC's analysis shows that without third adjacent protection, Houston has no space for low power radio, but up to four stations could be located there with more flexibility.

Southwest Virginia Community College hoped to include a student-run and community radio station in their new Learning Resources Center. However because of limitations placed on the FCC's ability to license LPFMs by the Radio Broadcasting Preservation Act, their application was dismissed. This application met every condition except for the distance requirement to a radio station, on the third adjacency, over 25 miles away in Marion, VA.

A Resource During Emergencies

Not only does low power radio add a wide range of viewpoints to the air, but these stations have proven critical during a crisis. Nothing can substitute for the universal accessibility of radio when emergencies strike. For example, when Hurricane Katrina made landfall in Mississippi, a low power station, WQRZ-LP, was the only source of emergency information in Hancock County, Mississippi, broadcasting vital recovery information 24 hours a day. The city of Bay St. Louis, where the station is based, was ravaged as 125 m.p.h. winds destroyed bridges and other infrastructure. Throughout the county most radio, television, and phone services were down. Shortly before the storm, WQRZ had moved its equipment—including its home-made radio

² Justin George, *After the Storms*, *St. Petersburg Times* (September 19, 2004).

tower—to an Emergency Operations Center where it made its broadcasts. The station provided vital information long after the storm, eventually receiving a temporary full-power license.

The Coalition of Immokalee Workers, famous for its advocacy on behalf of farmworkers in tomato fields, run one of the first LPFM stations to get on the air, Radio Conciencia, WCIW-LP. WCIW has been able to accomplish a lot for its community during its time on the air. During Hurricane Wilma Radio Conciencia was the only radio that was transmitting information on where to go and what to do in Spanish and in the indigenous languages spoken in the community. It mobilized two vans and transported over 350 people to shelter until late into the night.

In another innovative example, WRIR-LP in Richmond VA has a five-year contract with the city of Richmond to broadcast emergency response information in support of the City's recovery efforts in the event it is needed.

During Hurricane Ike many residents in East Texas lost electricity for up to a week. While most television stations stayed on the air, people were simply unable to tune in. In Chalk Hill, TX, residents used battery powered radios to tune in to the local low-power station, KZQX-LP, which stayed on the air using generators. KZQX-LP broadcasted vital information, such as reports from local authorities and interviews with the area energy company as well as the local Public Safety Director. Volunteer reporters ran live reports on road closures and damages. Reports continued after the storm passed.

HR 1147 Will Serve Communities that are Shut Out from LPFM

Although the low power radio community has been incredibly tenacious and creative in its efforts to create stations around the country, many communities are simply shut out by the current law. Our eight hundred radio stations are located only in smaller markets across the country. Right now there is only 1 LPFM station in the top 50 markets. If the Community Radio Act becomes law, most communities in America would have 3 to 5 opportunities for LPFM stations.

The consequences of Congress' limitation is significant. Many communities around the country wound up with only 1 station, instead of three or four. This meant that a church group needed to compete against a community group or a school needed to compete against a college. Thus, the FCC was forced to spend resources choosing among many deserving groups when there were other usable channels sitting empty. Congress could wipe that slate clean.

Suburban communities located close to large urban areas have the most to gain. For example, Kingston NY is over 100 miles from New York city, but it is limited in the low power radio stations it could get because of expansive protections for New York City broadcasters. Richmond Virginia suffers from being adjacent to the Washington market. The whole state of New Jersey has a long-term problem with radio and television stations that are located in New Jersey but in actuality serve New York and Philadelphia. Low power radio would help these communities get service directed to their own residents.

On the record at the FCC is a list of all the low power radio applicants that the FCC dismissed when Congress passed the Radio Broadcast Preservation Act, which I can make available to the Subcommittee.³ Six hundred and fifty-three applications were dismissed in twenty states. It is important to note that the FCC had not accepted applications yet for the remaining states and territories, so we will never know who would have applied in the rest of the country. Moreover, this was only the first filing window conducted by the FCC, so it is likely that as the service became more well-known, many more organizations would have applied for a station. In addition to the stations that were dismissed, attached to the testimony are examples from a few states showing the applicants that applied, those that have stations, and those that were dismissed.

³ Second Report and Order, *Creation of a Low Power Radio Service*, FCC 01-100 at App. B (2001). This list includes the disappointed applicants in Alaska, California, Connecticut, Georgia, Illinois, Indiana, Kansas, Louisiana, Maryland, Maine, Michigan, Minnesota, Mississippi, New Hampshire, Nevada, Oklahoma, Rhode Island, Tennessee, Utah, and Virginia. This list can be found at Appendix B of the FCC's order on the web at: http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-01-100A1.pdf.

Low power radio is part of the solution for the radio industry.

In recent years, there has been a significant literature developed analyzing the troubles currently plaguing FM radio. Radio is losing listeners and vitality and increasingly individuals tune into alternate sources for their music and information programming. Although radio is losing listeners, low power radio is well-positioned to capitalize on areas where radio is succeeding: it is noncommercial, and it is intensely local, capable of providing news and information not found anywhere else in any other medium. When an industry is moribund and losing vitality, the surest way to improve the situation is to infuse a little competition and new blood into the mix.

Radio is one our most powerful means of mass communication. Millions of Americans wake up to the radio every morning, listen to the radio on their drive to and from work, and listen throughout the day -- in offices, in hair salons, factories, and workshops. Every week radio reaches 93 percent of everyone over 12 years-old.⁴ Radio listeners comprise more than 200 million people, and they spend an average 19 hours per week listening to the radio. One indicator of the number of people who listen to the radio is the amount of money spent reaching them. In 2006, for example, the radio industry earned more than \$20 billion in advertising revenue.⁵

At the same time, radio listening is in decline. Between 1989 and 2005, radio listenership declined 22 percent in the top 155 markets.⁶ And radio listeners are decreasing the time they spend with radio – in 2008, for example, the average time spent listening to radio, on average, was just under 18 hours per week, roughly 45 minutes less than a year ago.⁷

While the radio industry in general may be declining, noncommercial radio is not. Looking at radio listening levels since 1995, radio as a whole has been steadily sinking, dropping almost 15 percent since 1995, while noncommercial radio is about 15 percent higher in the same

⁴ Radio Advertising Bureau, *Radio Marketing Guide and Fact Book* (2007).

⁵ Radio Advertising Bureau, *Radio Marketing Guide and Fact Book* (2007).

⁶ Peter DiCola, *False Premisis, False Promises*, Future of Music Coalition (2006) at 5.

⁷ Radio Research Consortium, *Public Radio Nationwide Trend*, (Nov. 5, 2008) found at http://www.rconline.org/reports/reports_list.php?ID=28

timeframe.⁸ According to Arbitron data, in spring 2008, CPB supported stations reached 28,744,600 persons in an average week.⁹ At least one factor in noncommercial radio's success is its role in creating original newscasts.¹⁰

While hundreds of millions of people listen to the radio, only a handful of companies own and manage radio stations and control the news, information, and music most of us hear. The non-partisan Future of Music Coalition found that in 2005, half of listeners tuned to stations owned by only four companies, and the top ten firms had almost two-thirds of listeners. In 2002, FMC found that only four companies controlled two thirds of the news market. Moreover, FMC found a close correlation between declining wages in the radio industry and consolidation, making it harder for workers and entertainers to make a living and increasing the likelihood that small owners will be forced to sell out to large conglomerates.

Ironically, even the corporate sector has begun to realize that smaller radio companies might be more successful. Several large radio station groups like Clear Channel are currently in the hands of private equity owners where the common wisdom is that they will be divided into smaller corporate entities to improve their performance.

Besides being financially less successful, fewer people owning more stations and making more decisions means less diversity of views, news, and programming. Women and people of color own few stations and hold few positions of power; fewer than 6 percent of radio news directors are people of color.¹¹ Low power radio is one part of the answer to bringing women and people of color into the civic discussion via the airwaves and to expanding choices for listeners.

⁸ Radio Research Consortium, Two Hopeful Signs, (May 23, 2008) found at http://www.rroonline.org/reports/reports_list.php?ID=25.

⁹ Radio Research Consortium, Public Radio Nationwide Trend, (Nov. 5, 2008) found at http://www.rroonline.org/reports/reports_list.php?ID=28

¹⁰ For example, Mark Jurkowitz, associate director of the Project for Excellence in Journalism indicated that NPR's success may be a reflection of the overall industry decline in news radio. "Local news stations have slowly but steadily vanished in a lot of cities..." said Jurkowitz. Paul Farhi, "Consider This: NPR Achieves Record Ratings," *Washington Post*, March 24, 2009.

¹¹ S. Derek Turner, *Off the Dial: Female and Minority Ownership in Broadcast Roles*, Free Press (2007).

The combination of poor representation and consolidation affects content. FMC found that just 15 formats make up over 76 percent of commercial programming and that only smaller station owners provide music programming such as Classical, Jazz, Americana, Bluegrass, New Rock, and Folk, and smaller station owners predominantly offer foreign language, ethnic-community programming, children's programming, and religious programming.¹² Similarly, Free Press found minority owners are more likely to air formats that appeal to minority audiences, even though other formats may be more lucrative. Among the 20 general station format categories, minority-owned stations were significantly more likely to air "Spanish," "religion," "urban," and "ethnic" formats. The Spanish and religion formats alone account for nearly half of all minority-owned stations.¹³

Innovative content is difficult to find on the radio dial. In a startling finding, the Future of Music Coalition studied the composition of playlists across the industry and found that, in almost every format measured, a large share of the music on any given format's annual playlist were comprised of songs more than five years old, and for several formats almost 50 percent of the airplay was of songs released prior to 1999.¹⁴

At the same time that a vitally important industry is eroding, Congress has within its power the opportunity to adopt legislation that will spur innovation by permitting a wide range of new entrants to take part.

Near Universal, Bipartisan Support from Conservative and Progressive Organizations Alike.

No discussion of low power radio would be complete without noting the tremendous breadth of supporters of this service. Last year the companion bill in the Senate drew the support of not only our long-time champion John McCain, but also Barack Obama and Hillary Clinton. In the faith community, the United Church of Christ, the U.S. Conference of Catholic Bishops, the National Association of Evangelicals and the Christian Coalition all agree. Low power radio has

¹² Peter DiCola and Kristin Thomson, *Radio Deregulation: Has it Served Listeners and Citizens?*, Future of Music Coalition (2002).

¹³ S. Derek Turner, *Off the Dial: Female and Minority Ownership in Broadcast Roles*, Free Press (2007).

¹⁴ Kristin Thomson, *Same Old Song*, Future of Music Coalition (2009).

the support of the National League of Cities, the U.S. Public Interest Research Group, the Leadership Conference on Civil Rights, Free Press, the National Hispanic Media Coalition, and Rainbow/PUSH. Musicians have mobilized to support the service. The range of artists is quite broad: the Indigo Girls, the Kronos Quartet, Saul Williams, Jon Langford and more have submitted video testimonials which are all available on the web.¹⁵

Why Not the Internet?

So I can hear you asking – why do we need new radio stations in this era of new technology. Can't we find all the information we need on the Internet?

The Internet is wonderful and many of us even use it to regularly receive audio programming. But the truth of the matter is, FM broadcast radio is unique in today's environment. It is available virtually everywhere in the United States, it is mobile, most receivers can operate on a 9 volt battery, most Americans can regularly tune in their cars, and you can listen to radio while you are doing something else. Radio is one of the few mediums equally accessible to everyone, no matter their age, their literacy rate, or their income. It isn't dependent on high speed bandwidth, in fact, it even operates when the power goes out. And unlike Internet service, it does not require expensive monthly subscriptions.

Radio builds community based on geography. There is a saying that the Internet is great at connecting people across the globe, but not people across the street. Local radio stations bring people and ideas together in specific location and increase turnout at events ranging from local music performances, community meetings, and local elections.

Interference – the Very Expensive Red Herring

Now let me address the technical standards that have occupied so much of Congress' attention with respect to this issue. I am not an engineer and I am not going to waste the Subcommittee's

¹⁵ See Future of Music Coalition's "I Support Community Radio" campaign, viewable at www.futureofmusic.org.

time with an extensive technical review. But I do want to remind the Subcommittee of some important facts.

The FCC's proposal was a conservative proposal. Some of the original concepts put forward in 1999 were scaled back to be extremely protective of existing radio services. The FCC took additional time during its comment period to develop a more detailed record, it conducted extensive tests. As Congressman Waxman said back in 2000, "From any objective viewpoint, the FCC bent over backwards to accommodate the concerns broadcasters raised."¹⁶

The FCC used as a basis for its LPFM licensing its long experience in licensing translators for full power stations. Translators are repeater stations which extend the coverage of a full power station. They are permitted power levels up to 250 watts and are located on third and even second adjacent channels to other radio stations. Please do not forget that the National Association of Broadcasters' members currently use thousands of stations to provide radio to the American public that are no different from low power radio stations—they use the same transmitters, with the same power, and they are same distance apart—the only difference between these stations and low power radio stations, are the owners. And low power radio stations originate their own content, while translators merely retransmit signals from other locations.

Radio engineering is not a complex new technology. It is well understood and widely deployed. This use of the spectrum is not experimental, and as stated above, there are thousands of radio translators around the country and significant numbers of older full power stations that operate with the same equipment and spacing as those proposed by the FCC for low power radio.

Despite this background, Congress heard dramatic warnings about harm to the radio dial that might occur from low power radio. And Congress thus ordered the FCC to conduct a third-party independent study. Five years ago, in 2003, the FCC commissioned the study at the cost of 2.2 million taxpayer dollars. The study confirmed what the FCC's engineers and the record evidence already shows – the possible interference from LPFM stations is miniscule.

¹⁶ Cong. Rec., H2313 (April 13, 2000).

Beyond this the FCC has extensive rules in place to address any small amount of interference that might occur. In this extremely unlikely instance, the burden has been placed squarely on the low power radio broadcaster to remedy the interference. LPFM advocates have been more than willing to work with the broadcast industry and the FCC to further refine those rules as needed.

The organizations that are claiming significant interference will occur from low power radio do not have a strong track record when it comes to their technical claims about new competitive services. Generally speaking, any incumbent will put up a fight when a new entrant is about to be authorized. Whether it was the original AM broadcasters opposing FM back in the 1930s, to the movie business hoping to eliminate VCRs, to Ma Bell's insistence that independently manufactured telephones would bring down the network, every incumbent protects its territory.¹⁷ The incumbents' concerns are groundless. Just last week, the US Court of Appeals for the D.C. Circuit rejected a whole additional slate of low power radio-related interference concerns raised by the National Association of Broadcasters.¹⁸

Congress should remember that not all broadcasters oppose low power radio. Among the organizations I represent here today are the National Federation of Community Broadcasters, which represents 200 radio broadcasters around the country. NFCB members care deeply about signal integrity and would not step forward on this issue if these broadcasters didn't care more about improving service to the nation than it did about keeping newcomers out.

The premise of Congress' decision to order the study was that if the study confirmed the FCC's findings, Congress would remove its prohibition on the FCC with respect to LPFM. I am asking Congress to keep its part of the bargain. At the time the original legislation was adopted, several more prescient members predicted that Congress would never revisit the issue, and thus the decision to study LPFM would actually translate into a decision to permanently restrict it. I truly hope that is not the case.

¹⁷ For an illustration of the historical examples of NAB opposition to new technologies, see Benjamin Lennett, *The Lobby that Cried Wolf*, New America Foundation (October 2008).

¹⁸ *Nat'l Ass'n of Broadcasters v. FCC*, Docket No. 08-1117 (D.C. Circuit, rel. June 5, 2009).

UCC OC Inc. Supports the Family Telephone Connection Protection Act and the Commercial Loudness Mitigation Act (CALM Act).

Although this testimony primarily addresses the importance of low power radio, UCC OC Inc. would also like to endorse the other pieces of legislation being addressed by the Subcommittee today.

UCC OC Inc. strongly supports of the Family Telephone Connection Protection Act, H.R. 1133. As advocates who fight for the needs of the public in all areas of communication policy, we are very happy to see Congressman Rush take leadership with this issue of prison-related phone charges – an injustice that touches millions of Americans, living in prison and without.

There are 2.3 million incarcerated men and women in America, a prison population that has grown by 50 percent in the last decade alone. Communication between prisoners and their friends and family on the outside is recognized to be critical to the goals of rehabilitation and eventual re-entry, but the current costs for phone calls out of prison are so prohibitive as to make staying in contact very difficult. Prisoners' families – who are mainly poor and disproportionately people of color – have to shelter burdens of connection fees of \$3.95 and per minute fees of \$0.89, often through monopoly deals cut between the carriers and the prisons.

H.R. 1133 would require the Federal Communications Commission set fair rates for interstate calls and prohibit the non-competitive payments between prisons and telephone companies. This would help mitigate a problem faced by already-burdened prisoner's families, and reclaim the power that communications tools have to heal people by re-connecting them with their families and friends.

UCC OC Inc. also commends Congresswoman Eshoo's CALM Act. H.R. 1084 addresses an issue that affects all of us every day – unreasonably loud advertising during television programming. The FCC has reported that loud commercials are one of the top consumer complaints toward broadcast television, and yet the problem remains. UCC OC Inc. is generally concerned about the content of commercials directed toward children and the pervasiveness of

marketing generally. We support the CALM Act's goal to ensure that advertisements during a program are not any louder than the loudest moment of that program, and that the peak volumes are not sustained throughout the advertisement.

Conclusion

In closing, I will share with you one of my favorite parts about working on low power radio. As I have worked on this issue over the years, one of my favorite moments is after I ask someone the question, "what would a radio station sound like if you and your community ran it?" All of a sudden a person's eyes light up as they start to imagine what they could do. It is a wonderful experience to see the wheels start turning in people's heads.

I am bringing with me today a potent illustration of how popular this service is. Since Congressmen Doyle and Terry re-introduced their legislation at the end of February, the public interest community has collected approximately 20,000 signatures in support of the Local Community Radio Act. I am presenting them here today to the Subcommittee.

I am confident that you will see fit to move ahead with H.R. 1147.