

**H.R. 1147, AS AMENDED BY THE SUBCOMMITTEE
ON COMMUNICATIONS, TECHNOLOGY, AND
THE INTERNET ON OCTOBER 8, 2009**

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 finds the following:

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

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

15 (3) In part due to consolidation of media own-
16 ership, there have been strong financial incentives
17 for some companies to reduce local programming
18 and rely instead on syndicated programming pro-
19 duced for hundreds of stations, though noncommer-
20 cial educational radio stations, including FM trans-

1 lator stations, currently provide important local serv-
2 ice, as do many commercial radio stations. A re-
3 newal of 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’s service to the public.

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

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

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

20 (7) Through the creation of LPFM, the Federal
21 Communications Commission sought to “create op-
22 portunities for new voices on the airwaves and to
23 allow local groups, including schools, churches, and
24 other community-based organizations, to provide

1 programming responsive to local community needs
2 and interests”.

3 (8) The Federal Communications Commission
4 made clear that the creation of LPFM would not
5 compromise the integrity of the FM radio band by
6 stating, “We are committed to creating a low-power
7 FM radio service only if it does not cause unaccept-
8 able interference to existing radio service.”.

9 (9) Currently, FM translator stations can oper-
10 ate on the second- and third-adjacent channels to
11 full-power radio stations, up to an effective radiated
12 power of 250 watts, pursuant to part 74 of title 47,
13 Code of Federal Regulations, using the very same
14 transmitters that LPFM stations will use. The Fed-
15 eral Communications Commission based its LPFM
16 rules on the actual performance of these translators,
17 which already operate without undue interference to
18 FM stations.

19 (10) Small rural broadcasters were particularly
20 concerned about a lengthy and costly LPFM inter-
21 ference complaint process. Therefore, in September
22 2000, the Federal Communications Commission cre-
23 ated a process to address interference complaints re-
24 garding LPFM stations on an expedited basis.

1 (11) In December 2000, Congress delayed the
2 full implementation of LPFM until the Federal
3 Communications Commission commissioned and re-
4 viewed an independent engineering study. This ac-
5 tion was due to some broadcasters' concerns that
6 LPFM service would cause interference in the FM
7 radio band.

8 (12) The Federal Communications Commission
9 granted licenses to over 800 LPFM stations despite
10 the congressional action. These stations are cur-
11 rently on the air and are run by local government
12 agencies, groups promoting arts and education to
13 immigrant and indigenous populations, artists,
14 schools, religious organizations, environmental
15 groups, organizations promoting literacy, and many
16 other civically oriented organizations.

17 (13) After 2 years and the expenditure of
18 \$2,193,343 in taxpayer dollars, the independent en-
19 gineering study commissioned by the Federal Com-
20 munications Commission concluded that concerns
21 about interference on third-adjacent channels were
22 unwarranted.

23 (14) The Federal Communications Commission
24 issued a report to Congress on February 19, 2004,
25 which stated that "Congress should readdress this

1 issue and modify the statute to eliminate the third-
2 adjacent channel distance separation requirement for
3 LPFM stations.”.

4 (15) On November 27, 2007, the Federal Com-
5 munications Commission again unanimously af-
6 firmed LPFM, stating in a news release about the
7 adoption of the Low-Power FM Third Report and
8 Order and Second Notice of Proposed Rulemaking
9 that the Federal Communications Commission rec-
10 ommends “to Congress that it remove the require-
11 ment that LPFM stations protect full-power stations
12 operating on third-adjacent channels”. Until the
13 date of enactment of this Act, Congress had not
14 acted upon that recommendation.

15 (16) Minorities represent almost a third of the
16 population of the United States. However, according
17 to the Federal Communications Commission’s most
18 recent Form 323 data on the race and gender of
19 full-power, commercial broadcast licensees, minori-
20 ties own only 7 percent of all local television and
21 radio stations. Women represent more than half of
22 the population but own only 6 percent of all local
23 television and radio stations. LPFM stations, while
24 not a solution to the overall inequalities in minority
25 and female broadcast ownership, provide an addi-

1 tional opportunity for underrepresented communities
2 to operate a station and offer local communities a
3 greater diversity of viewpoints and culture.

4 (17) LPFM stations have proven to be a vital
5 source of information during local or national emer-
6 gencies. Out of the few stations that were able to
7 stay on the air during Hurricane Katrina, several
8 were LPFM stations. In Bay St. Louis, Mississippi,
9 low-power FM station WQRZ remained on the air
10 during Hurricane Katrina and served as the Emer-
11 gency Operations Center for Hancock County. After
12 Hurricane Katrina, when thousands of evacuees
13 temporarily housed at the Houston Astrodome were
14 unable to hear over the loudspeakers information
15 about the availability of food and ice, the location of
16 Federal Emergency Management Agency representa-
17 tives, and the whereabouts of missing loved ones,
18 volunteers handed out thousands of transistor radios
19 and established an LPFM station outside of the As-
20 trodome to broadcast such information.

21 **SEC. 3. AMENDMENT.**

22 Section 632 of the Departments of Commerce, Jus-
23 tice, and State, the Judiciary, and Related Agencies Ap-
24 propriations Act, 2001 (Public Law 106–553; 114 Stat.
25 2762A–111), is amended to read as follows:

1 “SEC. 632. (a) The Federal Communications Com-
2 mission shall modify the rules authorizing the operation
3 of low-power FM radio stations, as proposed in MM Dock-
4 et No. 99–25, to—

5 “(1) prescribe protection for co-channels and first-
6 and second-adjacent channels; and

7 “(2) prohibit any applicant from obtaining a low-
8 power FM license if the applicant has engaged in any
9 manner in the unlicensed operation of any station in viola-
10 tion of section 301 of the Communications Act of 1934
11 (47 U.S.C. 301).

12 “(b) Any license that was issued by the Commission
13 to a low-power FM station prior to the date on which the
14 Commission modifies its rules as required by subsection
15 (a) and that does not comply with such modifications shall
16 be invalid.”.

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 pro-
3 vide third-adjacent channel protection for full-power non-
4 commercial FM stations and noncommercial FM trans-
5 lator and booster stations that broadcast radio reading
6 services via an analog subcarrier frequency from potential
7 low-power FM station interference.

8 **SEC. 6. ENSURING AVAILABILITY OF SPECTRUM FOR LOW-**
9 **POWER FM STATIONS.**

10 The Federal Communications Commission, when li-
11 censing FM translator and low-power FM stations, shall
12 ensure—

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

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

17 **SEC. 7. PROTECTION OF TRANSLATOR INPUT SIGNALS.**

18 The Federal Communications Commission shall mod-
19 ify its rules to address the potential for predicted inter-
20 ference to FM translator input signals on third-adjacent
21 channels set forth in section 2.7 of the technical report
22 entitled “Experimental Measurements of the Third-Adja-
23 cent Channel Impacts of Low-Power FM Stations, Volume
24 One—Final Report (May 2003)”.

1 **SEC. 8. ENSURING EFFECTIVE REMEDIATION OF INTER-**
2 **ERENCE.**

3 The Federal Communications Commission shall mod-
4 ify the interference complaint process described in section
5 73.810 of its rules (47 CFR 73.810) as follows:

6 (1) For a period of one year after a new low-
7 power FM station is constructed on a third-adjacent
8 channel, the low-power FM station shall be required
9 to broadcast periodic announcements that alert lis-
10 teners that interference that they may be experi-
11 encing could be the result of the operation of the
12 new low-power FM station on a third-adjacent chan-
13 nel and shall instruct affected listeners to contact
14 the low-power FM station to report any interference.
15 The Federal Communications Commission shall re-
16 quire all newly constructed low-power FM stations
17 on third-adjacent channels to—

18 (A) notify the Federal Communications
19 Commission and all affected stations on third-
20 adjacent channels of interference complaints;
21 and

22 (B) cooperate in addressing any such in-
23 terference.

24 (2) Low-power FM stations on third-adjacent
25 channels shall be required to address complaints of
26 interference within the protected contour of an af-

1 affected station and shall be encouraged to address all
2 other interference complaints, including complaints
3 to the Federal Communications Commission based
4 on interference to a full-service FM station, an FM
5 translator station, or an FM booster station by the
6 transmitter site of a low-power FM station on a
7 third-adjacent channel at any distance from the full-
8 service FM station, FM translator station, or FM
9 booster station.

10 (3) To the extent possible, the Federal Commu-
11 nications Commission shall grant low-power FM sta-
12 tions on third-adjacent channels the technical flexi-
13 bility to remediate interference through the coloca-
14 tion of the transmission facilities of the low-power
15 FM station and any stations on third-adjacent chan-
16 nels.

17 (4) The Federal Communications Commission
18 shall—

19 (A) permit the submission of informal evi-
20 dence of interference, including any engineering
21 analysis that an affected station may commis-
22 sion;

23 (B) accept complaints based on inter-
24 ference to a full-service or FM translator sta-
25 tion by the transmitter site of a low-power FM

1 station on a third-adjacent channel at any dis-
2 tance from the full-service or FM translator
3 station; and

4 (C) accept complaints of interference to
5 mobile reception.

