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For decades now, the Federal Communications Commission has awarded new radio station licenses by tying each license to a specific, singular community.

Recently, in response to concerns expressed by Commissioner Copps and former Commissioner Adelstein that broadcasters were changing their licensed communities as a "gaming" of the commission's rules, the commission initiated a proceeding with the title of "Policies to Promote Rural Radio Service and Streamline Allotment Assignment Procedures" to dramatically change the FCC's policies for awarding new station licenses and moving existing stations.

Nine broadcasters from small and medium-sized markets joined together to tell the commission that, with respect its radio allotment policies, "the emperor has no clothes."

These nine broadcasters, with the lead broadcaster being Miller Communications Inc. of Taylorville, Ill., observed that, except in extremely rural areas, there are few radio stations in the United States that serve just one community. Rather, almost every radio station serves at least several communities.

### **No evidence**

A singular city of license for a radio station is a concept that has taken on an out-of-proportion importance at the FCC. It is a fiction perpetuated by an FCC licensing scheme begun years ago that the commission has steadfastly refused to alter.

Under the FCC's allocation scheme as it now exists, the goal is that just about any size community should have at least one radio station. The commission has allotted radio stations to communities with a population of fewer than 100 persons, depriving communities of far greater population with additional, possibly needed, radio stations.



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Common sense suggests that areas that have more population should have a greater number of radio stations. Areas with denser populations generally have a greater number of grocery stores, shopping centers, television stations, newspapers, movie theaters and the like.

Randy Miller of Miller Communications Inc. observes that "the bottom line of our comments is that radio service should follow population."

The commission launched its Rural Radio Proceeding with the bald unsupported statement that there is "needed [radio] service at smaller communities and in rural areas." The majority of the commission's proposals flow from this one unsupported premise. There are no statistics, data, evidence or reasoning for the foundational premise that additional radio service is needed in smaller communities and rural areas.

Citizens in areas with greater population are more likely as a whole to have more diverse tastes, opinions and preferences that may be served by a greater number of radio stations. Yet the commission's quest to provide each community with its own radio station, no matter how small the community, is directly contrary to a more efficient use of our available spectrum.

One of the nine commenters, Larry Fuss, the owner of radio stations in Mississippi, Las Vegas and Pago Pago, states that "the commission is ignoring the impact of urban sprawl" and laments that "stations located in a small town on the edge of the metro simply cannot compete with stations located closer to the center of population." Larry argues that "in situations where stations can move closer to the center of population and thus serve more people, they should be allowed to do so."

### **Unintended consequences**

The FCC's proposed rule changes will have significant ramifications to the public and should be based upon more than the wholly unsupported premise that rural areas need more radio stations.

The unintended consequences of the proposed FCC's policies are restricting competition, creating spectrum inefficiencies and protecting radio station owners in larger markets from additional competition. The proposed rule changes would just about assure that no substantially populated area would ever again receive an additional radio station, nor would its listeners enjoy a radio station moving closer to the center of population so that it could be better heard.

The FCC's proposals are protectionism at its worst. The marketplace, rather than the government, should decide where radio stations are most desired and wanted. This protectionism is being foisted upon the public under the rubric of preventing radio stations from migrating to areas with larger population.

"Attempting to change how competition is done is manipulating the marketplace, and that's wrong," says Randy Miller.

The FCC's notion that, without governmental restraint, all radio stations would move to areas with large population, in addition to being fundamentally vapid as an engineering matter, is also beyond common sense even if approached from a non-engineering view.

The history of commission assignments and allotments demonstrates that hundreds of radio stations are being applied for, built and operated in ever more remote and rural areas of the United States. Yet a fear that all radio stations will move to big cities forms the basis of the commission's proposed protectionism.

### **Unfair to AM hopefuls**

The FCC's proposals also perpetuate the unfairness of the AM radio station selection process for new entrants.

Now, an AM applicant for a new radio station is at the mercy of the luck of the draw. If an applicant

for a new AM radio station is crafty enough, or lucky enough, to propose new AM service as a "first local transmission service" to the larger community with no radio station, that applicant, even though it may be a conglomerate with hundreds of stations, is awarded a dispositive preference and thus the radio station.

The commission proposes making the process even more unfair by denying a new entrant if the proposed new radio station might compete with existing broadcasters in a more populated area.

This unfairness should be done away with. With mutually-exclusive AM applicants the commission should first make its determination which community is deserving of the AM assignment. Then, rather than denying all other applicants except for the applicant or applicants who were lucky enough, fortunate enough or cunning enough to choose the favored community, all of the mutually-exclusive AM applicants should be allowed to amend their proposals without regard to the minor amendment rules to specify the preferred community and go to auction.

The favored community gets service, and no longer does the inherent unfairness remain in which a radio station is awarded to the applicant who is best able to "game" the system.

As in FM, once the most deserving community is identified by the commission, all applicants are given the opportunity for the resulting station.

The nine broadcasters who filed consolidated comments generally advocate that the assignment and allotment of both AM and FM stations should be made to whatever community will allow the most efficient use of available spectrum as determined by which proposal covers the greatest number of people.

For modifications of a licensed community to another community within areas that are abundantly served, the sole criterion should be a technical evaluation whether the modification more efficiently uses the available spectrum.

Only in those situations where new service is proposed to an area that is not already abundantly served, having reception from fewer than five full-time radio stations, should assignments and allotments continue to be determined based upon the FCC's present priorities in which a first radio station for a community is given one of the highest priorities.

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