REPLY COMMENTS OF THE LOW POWER FM ADVOCACY GROUP (LPFM-AG)

MB Docket No. 22-459
2022 Quadrennial Regulatory Review
Review of the Commission's Broadcast Ownership Rules

I. INTRODUCTION

These Reply Comments respond to the initial comments filed in this proceeding concerning modernization of the Commission's broadcast ownership rules. Commenters supporting deregulation argue that legacy ownership caps no longer reflect current marketplace realities and that increased consolidation will permit broadcasters to operate more efficiently, stabilize revenue, and improve service. Other commenters caution that increased concentration risks harming localism, competition, and independent broadcasters.

Taken together, these comments point to an issue that warrants closer attention. If ownership limits are relaxed, the resulting increase in local market power will have predictable downstream effects on smaller broadcasters unless complementary measures are considered. Low Power FM stations and small, locally owned AM stations that rely on FM translators are differently situated services, but both are exposed to these effects under current rules.

These Reply Comments do not seek to change the subject of this proceeding. Instead, they apply the reasoning advanced by commenters on all sides to ensure that ownership modernization does not unintentionally undermine local service in precisely the communities commenters seek to protect.

II. COMMENTERS SUPPORTING DEREGULATION ACKNOWLEDGE INCREASED LOCAL MARKET POWER

Commenters advocating relaxation or elimination of ownership caps emphasize that scale brings efficiencies, stronger revenue performance, and greater operational flexibility. They argue that larger station groups will be better positioned to invest in facilities, staffing, and service improvements, and that rigid ownership limits distort outcomes that could otherwise be addressed through case by case public interest review.

These arguments necessarily acknowledge that ownership consolidation increases local market power. That outcome may be lawful and, in some cases, beneficial. However, it is also consequential. Increased concentration alters the economic environment in which smaller broadcasters operate, particularly those without access to multi station sales operations, regional branding, or capital reserves.

The Commission cannot reasonably credit the benefits of scale without also considering how increased local market power affects broadcasters that lack those advantages.

III. INCREASED CLUSTER SCALE DISPROPORTIONATELY AFFECTS SMALL AND LOCALLY OWNED BROADCASTERS

Commenters opposing deregulation correctly warn that consolidation can disadvantage independent and minority owned broadcasters. That concern extends beyond ownership counts to economic power within local markets.

As ownership concentration increases, large station clusters gain structural advantages regardless of intent or rule compliance. These advantages include the ability to bundle advertising and underwriting across multiple signals, dominate local advertising markets, leverage brand recognition, and absorb short term losses in ways that small operators cannot. These effects grow rapidly as clusters expand. The difference between owning three stations and owning fifteen primary stations in a market is not incremental. It is transformative.

Small, locally owned AM stations often rely on a single FM translator to remain viable. Many of these AM stations are minority owned and serve specific local or cultural communities. While they are commercial services and distinct from LPFM, they share a similar vulnerability. They operate on thin margins, rely on local advertising relationships, and lack the ability to offset losses across a cluster of stations.

LPFM stations, while noncommercial, face comparable structural exposure. They depend on local underwriting, fundraising, and volunteer support. Neither service can realistically compete for local economic support against large clusters with dominant market presence.

These effects are structural and predictable. They arise from scale itself, not from bad faith or rule violations.

IV. LPFM REMAINS UNIQUELY DISADVANTAGED UNDER CURRENT RULES

LPFM is the broadcast service most closely aligned with the Commission's localism objectives. Yet it remains subject to the most restrictive ownership, transfer, and technical rules of any broadcast service.

Unlike FM translators, LPFM stations face strict ownership caps, severe transfer restrictions, and fixed technical limits that often prevent adequate coverage of their communities. These constraints become more consequential as ownership consolidation increases elsewhere in the broadcast landscape.

The Commission has already determined that a rigid one station ownership limit for LPFM is not universally appropriate. Under its existing rules, certain applicants are expressly permitted to hold attributable interests in more than one LPFM station where doing so is necessary to serve their communities effectively. Specifically, the Commission allows Tribal Applicants and public safety or governmental entities operating within their jurisdiction to own up to two LPFM stations. See 47 C.F.R. § 73.855(b).

That determination reflects an acknowledgment that a single LPFM facility may not be sufficient in all circumstances, particularly where communities are geographically dispersed or service needs cannot be met by a single signal. Commenters' arguments in this proceeding that legacy ownership rules no longer reflect service realities reinforce the need to apply that same recognition consistently. If the Commission has already concluded that flexibility is appropriate for some LPFM applicants, it should not maintain a rigid ownership cap for other qualified community based nonprofit organizations facing comparable service challenges.

V. LPFM TRANSFER RULES ALREADY CAUSE THE LOSS OF LOCAL SERVICE

Several commenters argue that outdated ownership and transaction restrictions distort incentives and undermine efficient service. That concern is already evident in the LPFM context.

Under current rules, LPFM stations may not be transferred for fair market value. In practice, transfers are limited to reimbursement of depreciated equipment costs, regardless of the station's service record, community value, or operational investment. When a sponsoring nonprofit can no longer sustain operations, pursuing a transfer often makes no economic sense, even to another qualified community organization.

As a result, LPFM licenses are frequently surrendered rather than transferred. This not only deprives communities of locally originated radio service, but also permanently removes those communities from future opportunities for community based broadcasting. Once an LPFM channel is surrendered, it is unlikely to be reclaimed by another nonprofit applicant. Instead, particularly in an environment of expanded ownership concentration as urged by several commenters in this proceeding, available spectrum capacity is far more likely to be acquired and utilized by a larger broadcast group through a commercial FM translator. Over time, this dynamic converts spectrum that once supported local, community originating service into rebroadcast use and forecloses future access to the dial for community broadcasters. No other broadcast service is subject to a regulatory framework that so directly incentivizes license surrender while simultaneously enabling larger operators to consolidate control over scarce spectrum resources.

This outcome does not preserve localism, prevent trafficking, or advance competition. It simply eliminates community service.

VI. COMMENTERS' CALLS FOR FLEXIBILITY SUPPORT PARALLEL LPFM MODERNIZATION

Commenters supporting ownership modernization repeatedly argue that rigid, legacy rules should give way to more flexible, service based standards. Applying that logic consistently requires examining whether LPFM ownership, transfer, and technical restrictions remain necessary in all circumstances.

Where commenters emphasize optimizing facilities to serve communities effectively, it follows that LPFM stations should not be categorically barred from modest technical flexibility where they can demonstrate compliance with existing interference protection standards applicable to other secondary services. Such flexibility would not alter priority rules or undermine spectrum management. It would simply allow community stations to reach the communities they are licensed to serve.

Similarly, commenters' criticism of artificial transaction restrictions supports reevaluating LPFM's unique prohibition on fair market transfers among qualified nonprofit entities. In a more consolidated marketplace, these restrictions further disadvantage community broadcasters and directly contribute to the loss of local service.

VII. PARALLEL MODERNIZATION IS NECESSARY TO PRESERVE LOCAL SERVICE

Commenters supporting deregulation assert that modernization will strengthen broadcast service. Commenters opposing deregulation warn that consolidation risks weakening local voices. Both positions support the same conclusion. Ownership modernization without parallel reform for LPFM will amplify existing asymmetries and increase pressure on community based service.

Modernizing LPFM ownership, transfer, and technical rules, subject to appropriate safeguards, does not conflict with the goals of this proceeding. It ensures that increased concentration does not operate to the exclusive benefit of large clusters while leaving small and community broadcasters increasingly exposed.

These issues warrant consideration either in this proceeding or through parallel Commission action.

VIII. CONCLUSION

The record reflects broad agreement that rigid broadcast ownership rules warrant reconsideration. It also reflects serious concern about the impact of increased concentration on local service, independent broadcasters, and minority owned stations. These Reply Comments demonstrate that those concerns cannot be reconciled unless LPFM is included in any ownership modernization framework.

Accordingly, if the Commission relaxes ownership limits for primary broadcasters, it should modernize LPFM rules in parallel to ensure consistency, fairness, and preservation of community based service. Absent such reform, existing LPFM transfer and ownership restrictions will continue to force license surrender and permanently deprive communities of locally originated radio service.

Respectfully submitted,

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December 25, 2025