

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.3556 of the)	MB Docket No. 19-310
Commission's Rules Regarding Duplication of)	
Programming on Commonly Owned Radio Stations)	
)	
Modernization of Media Regulation)	MB Docket No. 17-105
Initiative)	
)	

COMMENTS OF COMMON FREQUENCY

I. INTRODUCTION

Common Frequency, Inc. ("CFI") is a 501(c)(3) nonprofit corporation dedicated to the dissemination of non-commercial broadcast information and advocating in the public interest. The Federal Communications Commission ("FCC" or "Commission") seeks comments on changes to the program duplication rules through this Notice of Proposed Rulemaking ("NPRM"). CFI here supplies comment.

II. COMMENTS

Through this NPRM the Commission seeks comments on whether to modify or eliminate Section 73.3556 of the Commission's rules which prohibits any commercial AM or FM radio station from devoting "more than 25 percent of the total hours in its average broadcast week to programs that duplicate those of any other station in the same-service community contours..." CFI believes the rule should be maintained or even updated to include further rebroadcast

stipulations. The FCC cites “considerable changes in the radio broadcast industry” which could lead to the possible elimination of the rule.¹ However, when a closer look is taken at these industry changes, there is concern that programming duplication is stifling programming diversity to a greater degree than 1992.

At the core of the possible impetus for removal of the duplication rule, the Commission cites the sheer increase of broadcast facilities: “In 1992, there were roughly 11,700 commercial AM and FM and FM translator stations; today there are close to 19,500.” Dissecting these numbers paints a different story. First, the number of AM stations has decreased -- 4961 in 1992 versus 4593 now.² The number of full power FM commercial facilities has remained, for the most part, consistent within major cities across the US. This is because major urban FM allotments were chiefly filled-in in the 1970’s and 1980’s. There were urban “rimshots” and community of license change allocations added after this time, but these were piecemeal additions either reorganizing channels or using geographical tricks to squeeze another station. Knowing that according to the census, approximately 80% of Americans live in these urbanized areas, there were not considerable changes to the number of stations most people listened to. It was the remaining 20% of the population, that did not live directly these major metropolitan areas, that did see an increase in full power stations, in some cases, supplanting fringe-listening channels (total FM commercial stations in 1992, 4785, versus 6772 in 2019³). Additionally, there has been not that many community radio and public radio signal additions comparatively. The exception is the dozens of community stations from the 2007 NCE filing window, and some satellite public radio facilities to rebroadcast urban NPR stations to regional areas outside their

¹ Para. 1, page 1, NPRM.

² FCC News Release. *Broadcast Station Totals As Of December 31, 2019*. Jan 3, 2020. FCC News Release, *Broadcast Station Totals as of December 31, 1992*, Jan 13, 1993.

³ *Ibid.*

principal broadcast cities. College radio has shrunk. The largest beneficiary of NCE full power expansion were regional and national satellite-relayed religious programming networks. But the largest percentage of increase of broadcast facilities, by several times, were FM translators -- currently totalled at 8182 facilities. This number stood at 1954 in 1992.⁴ The thousands of additional translators were a result of Auction No. 83 in 2003, and Auction Nos. 99 and 100 in 2017. These translators were not used for traditional translator causes for the most part (i.e., translator service was developed to augment service for terrain-impeded broadcasts). Today, translators are used principally for (1) chaining regional or national/satellite broadcast content, (2) duplicating HD-2 signals, and (3) duplicating local AM stations. For the last mention, there were 2169 Low Power FM station added, which is truly new content, but their footprint is much less than a translator (at the maximum extent, 1/45 the coverage of the largest fill-in translator). In some cities -- like Oklahoma City and Pittsburgh -- there is virtually no LPFM service. There are approximately 1458 multicast HD stations,⁵ or 13% of the total full power FM stations participating, which did not exist in 1992.

Other changes in broadcasting include the Telecommunications Act of 1997. Previous to the passing of the Act there was an ownership cap of 20 FM + 20 AM stations per owner, and a market cap of three to five. That cap was lifted. Currently, the Top 5 commercial broadcasters own approximately 2000 full power facilities, with a maximum of eight that can be commonly owned per market. Multiple studies have demonstrated a plummet of programming (airplay) diversity since the 90s.⁶ The recent lift of the cross-ownership ban would have

⁴ Actually the number of translators was lower than that. The January 13, 1993 FCC News Release listed that as the total for "Translators and Boosters".

⁵ "Scanning The HD Radio Dial: Groups Getting It Right." *Inside Radio*. Jun 25, 2018

⁶ Lee, Steve S., "Predicting cultural output diversity in the radio industry, 1989–2002", (Department of Sociology, Vanderbilt University), *Poetics* 32 (2004) 325-342. Peter DiCola & Kristin Thomson, *Radio Deregulation: Has it Served Musicians and Citizens?*, Future of Music Coalition (Nov. 18, 2002).

decreased viewpoint diversity if enacted.⁷ Although 38.7% of Americans are people of color, minority radio ownership has been stagnant at 5%.⁸

Because of self-inflicted debt from overconsolidation, in addition to the FCC's 2017 *Elimination of the Main Studio* rule, this has precipitated iHeartMedia to lay off hundreds of local station personnel and disc jockeys just in the last week.⁹ Because of deregulation, it is now fully legal for iHeartMedia to disseminate the same duplicated programming stream straight from its US headquarters without any local talent at the local broadcast facilities. This would seem in violation of 47 U.S.C. 307(b) *transmission service* precedent, but this part of the Communications Act has not been actively enforced.

The bulk of the increased licensing since 1992 was from translators. These type of translators specifically:

- duplicate AM station programming verbatim.
- relay centrally-produced network programming via satellite (or “chained” on commercial channel translators) from at time hundreds to even thousands of miles away. Examples include Calvary Satellite Network, which has roughly 370 total facilities,¹⁰ and Educational Media Foundation (“EMF”), which has approximately 850 total facilities. Just these top two satellite-relayed broadcasters have a combined 1220 facilities, with both broadcasting from one main studio a piece.
- duplicate HD-2 channels.

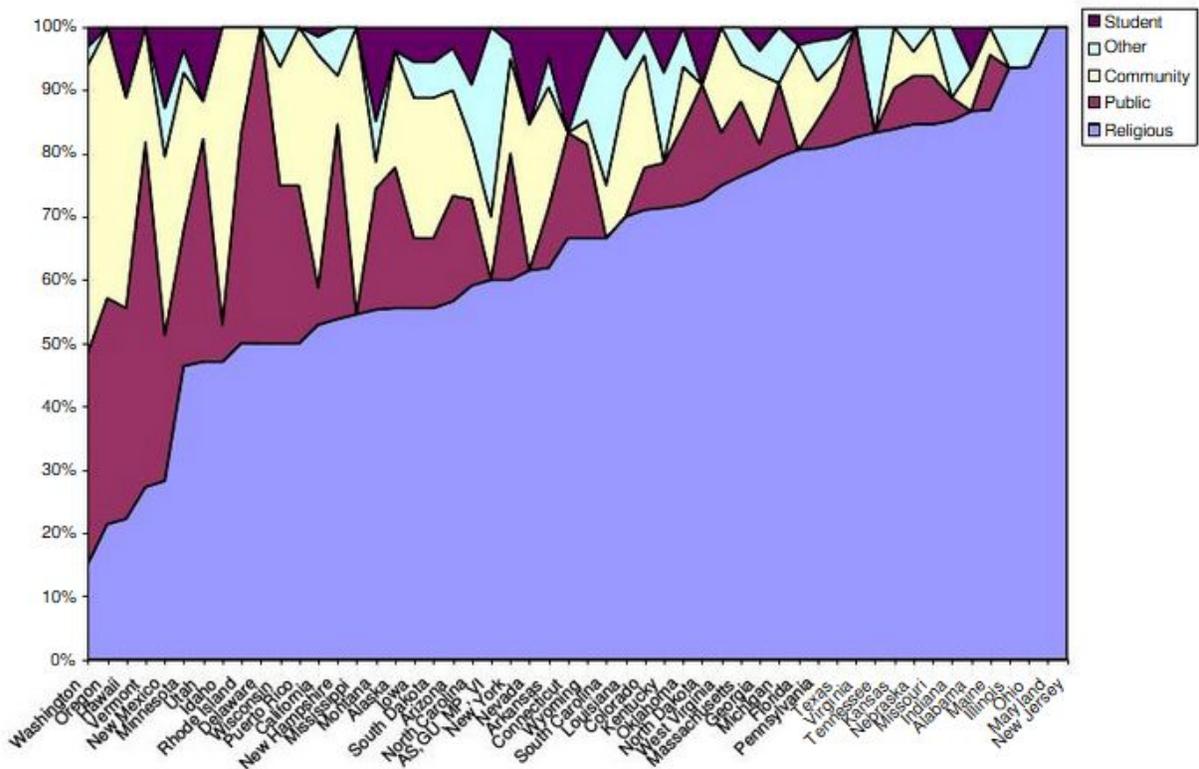
⁷ Per study, “Viewpoint Diversity and Media Consolidation: An Empirical Study.” Ho, Daniel E. and Ken M. Quinn, Harvard University, May 17 2008.

⁸ “A Call For The FCC To Fix Minority Ownership ‘Suppression.’” Adam Jacobson. *RBR*. October 19, 201.

⁹ ‘The Culling Has Begun’: Inside the iHeartMedia Layoffs” Elias Leight. *Rolling Stone*. January 15, 2020

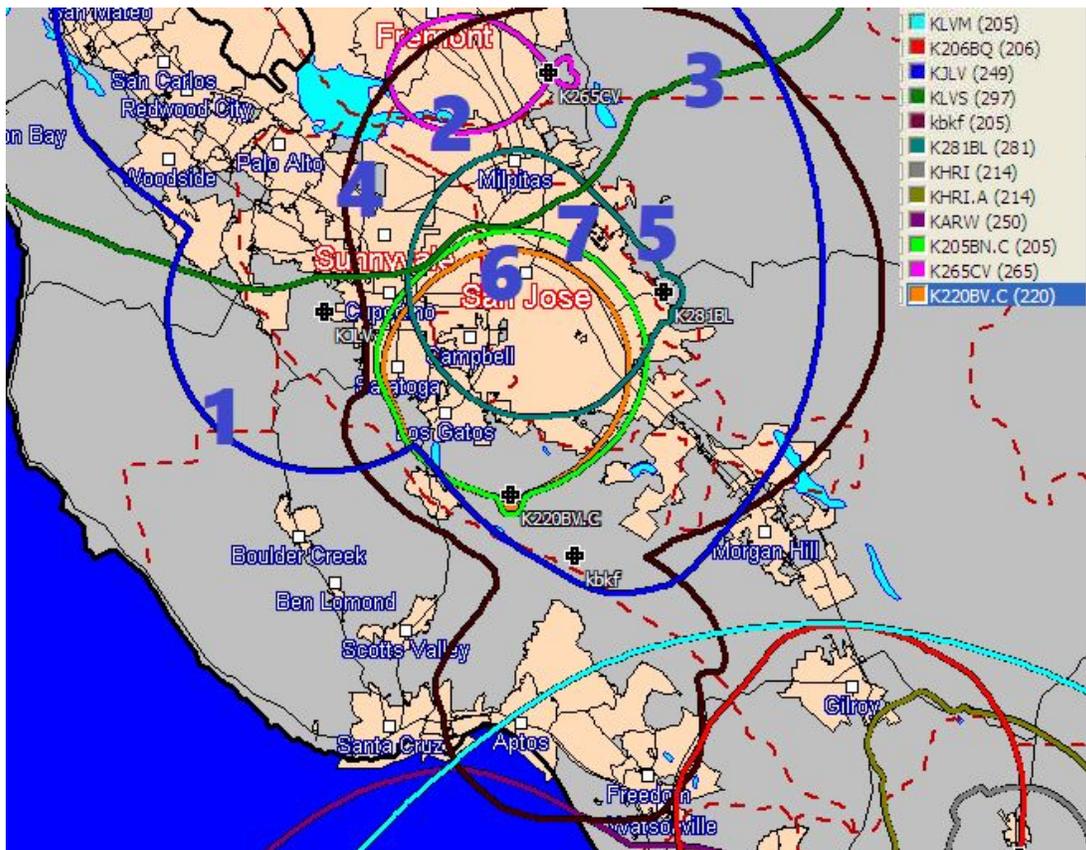
¹⁰ https://csnradio.com/downloads/pdf/CSN_StationList.pdf

Within a 2009 report, CFI did an assessment of the over 3500 applications received within the 2007 NCE filing window. The increase in NCE FM facilities was chiefly regional religious-programmed stations and networks (see chart below of total percentage of NCE applications received in each state vs. organization type) in rural, smaller markets, and some penetration into medium-sized radio markets.



Interpretation: We can all sense where this is all going in the future. The top five broadcasters, due to deregulatory measures, could pack-up their local studios for 2000 stations and move them all to five computer servers. For cost savings, they could have ten format streams that they simply beam via satellite to hundreds of stations, possibly leading to overlapped content streams. This is not merely a doomsday prophesying -- it is already happening. An example for the trend of maximizing income/ratings at the expense of local

programming is the death of legendary rock station KFOG in San Francisco. When KFOG was in operation, the station simulcasted on KFFG 97.7 FM in San Jose. Cumulus sold KFFG to EMF to be fed via satellite for their national Christian Contemporary Music service. Original content produced on KFOG was terminated for simulcast of co-owned KNBR (AM), a 50 kW Class A AM station which already covers the entire Bay Area (coverage extending to Northern California) with a strong signal. In all, the legacy-branded station was eradicated simply to make money selling the South Bay channel, to eliminate the cost of KFOG staff / KFOG content creation, and to maximize income vs. operating expenses. And to add to program duplication, EMF can be heard via seven FM facilities in the San Jose area (see 60 dBu contours below). EMF has also procured legacy commercial stations in large markets like in New York City (WPLJ-FM) and Los Angeles (KSWD) to feed via satellite.



Let us peer into the Bay Area channels -- specifically, those for AM station rebroadcast on translator, satellite-fed stations outside the Bay Area, and HD-2 rebroadcast (chart does not include Bay Area local terrain-blocked translator uses):

<u>FREQ</u>	<u>TYPE</u>	<u>REBROADCAST</u>	<u>CALL</u>	<u>COMMUNITY</u>	<u>PROGRAMMING RELAY</u>	<u>PARENT ORG IF</u>
88.1	TRANSLATOR	KAWZ (FM)	K201FW	LOS GATOS CA	SATELLITE REBROADCAST	CALVARY SATELLITE NET
88.1	TRANSLATOR	KAWZ (FM)	K201IH	NAPA CA	SATELLITE REBROADCAST	CALVARY SATELLITE NET
88.9	TRANSLATOR	KLVS (FM)	K205BM	OAKLAND CA	SATELLITE REBROADCAST	EMF
88.9	TRANSLATOR	KJLV (FM)	K205BN	LOS GATOS CA	SATELLITE REBROADCAST	EMF
89.1	TRANSLATOR	KLVM (FM)	K206BQ	HOLLISTER CA	SATELLITE REBROADCAST	EMF
89.3	TRANSLATOR	KLVM (FM)	K208CW	MONTEREY CA	SATELLITE REBROADCAST	EMF
89.3	FULL SERVICE		KMVS	MOSS BEACH CA	SATELLITE REBROADCAST	EMF
90.1	TRANSLATOR	KYCC (FM)	K211EZ	LIVERMORE CA	SATELLITE REBROADCAST	YOUR CHRISTIAN COMP.
89.7	FULL SERVICE	KNVM	PRUNEDALE CA		SATELLITE REBROADCAST	EMF
90.3	TRANSLATOR	KYCC (FM)	K212BJ	DUBLIN CA	SATELLITE REBROADCAST	YOUR CHRISTIAN COMP.
90.3	TRANSLATOR	KXSC (FM)	K212AA	LOS GATOS CA	SATELLITE REBROADCAST	USC (S. CALIFORNIA) (OVERLAPPING 60 dBu WITH KXSC)
90.7	FULL SERVICE		KHRI	HOLLISTER CA	SATELLITE REBROADCAST	EMF
91.1	TRANSLATOR	KAWZ (FM)	K216AX	LAUREL CA	SATELLITE REBROADCAST	CALVARY SATELLITE NET
91.3	TRANSLATOR	KMRO (FM)	K217CQ	SALINAS CA	SATELLITE REBROADCAST	RADIO NUEVA VIDA
91.1	TRANSLATOR	KAWZ (FM)	K216AX	LAUREL CA	SATELLITE REBROADCAST	CALVARY SATELLITE NET
91.9	TRANSLATOR	KNVM (FM)	K220BV	SAN JOSE. CA	SATELLITE REBROADCAST	EMF
95.9	TRANSLATOR	KAWZ (FM)	K240CD	SOQUEL, ETC. CA	SATELLITE REBROADCAST	CALVARY SATELLITE NET
97.7	FULL SERVICE		KJLV	LOS ALTOS CA	SATELLITE REBROADCAST	EMF
99.3	TRANSLATOR	KTRB (AM)	K257BE	LOS GATOS, ETC.	AM DUPLICATION	
99.3	TRANSLATOR	KGMZ (AM)	K271BT	S. LAKE TAHOE	AM DUPLICATION	
100.7	TRANSLATOR	KVVN (AM)	K225DB	SAN JOSE CA	AM DUPLICATION	
100.9	TRANSLATOR	KJLV (FM)	K265CV	FREMONT CA	SATELLITE REBROADCAST	EMF
101.7	TRANSLATOR	KSFB (AM)	K269FB	SAN FRANCISCO	AM DUPLICATION	
101.7	TRANSLATOR	KZSJ (AM)	K269GX	SAN JOSE CA	AM DUPLICATION	
103.3	TRANSLATOR	KLVS (FM)	K277CH	SAN FRANCISCO	SATELLITE REBROADCAST	EMF
104.1	TRANSLATOR	KJLV (FM)	K281BL	COYOTE CA	SATELLITE REBROADCAST	EMF
104.1	TRANSLATOR	KLVS (FM)	K281BU	SAN FRANCISCO	SATELLITE REBROADCAST	EMF
107.3	FULL SERVICE	KLVD (FM)	KLVS	LIVERMORE CA	SATELLITE REBROADCAST	EMF
89.3	TRANSLATOR	KYCC (FM)	K207EP	CONCORD CA	SATELLITE REBROADCAST	YOUR CHRISTIAN COMP
91.9	TRANSLATOR	KAWZ (FM)	K220JV	BYRON CA	SATELLITE REBROADCAST	CALVARY SATELLITE NET
92.1	TRANSLATOR	KLVR (FM)	K221DQ	PETALUMA CA	SATELLITE REBROADCAST	EMF
92.3	TRANSLATOR	KLVR (FM)	K222CV	CALISTOGA CA	SATELLITE REBROADCAST	EMF
91.9	FULL SERVICE		KLVR	MIDDLETOWN CA	SATELLITE REBROADCAST	EMF
87.7	CH 6	ANALOG LPTV	KBKF-LP	SAN JOSE CA	SATELLITE REBROADCAST	EMF
92.9	TRANSLATOR	KMKY (AM)	K225CK	UNION CITY CA	AM DUPLICATION	
92.9	TRANSLATOR	KZSF (AM)	K225CX	PALO ALTO CA	AM DUPLICATION	
93.1	TRANSLATOR	KAZA (AM)	K226CQ	GILMORE CA	AM DUPLICATION	
93.7	TRANSLATOR	KVTO (AM)	K229DD	SAN FRANCISCO	AM DUPLICATION	
94.9	TRANSLATOR	KRML (AM)	K271BP	CARMEL CA	AM DUPLICATION	
95.3	TRANSLATOR	KDOW (AM)	K237GZ	SAN FRANCISCO	AM DUPLICATION	
95.7	TRANSLATOR	KSCO (AM)	K239CN	WATSONVILLE	AM DUPLICATION	
96.1	TRANSLATOR	KEAR (AM)	K241DC	SAN FRANCISCO	AM DUPLICATION	
97.3	TRANSLATOR	KKMC (AM)	K247BL	TULARCITOS &...	AM DUPLICATION	
104.1	TRANSLATOR	KSCO (AM)	K281CA	SANTA CRUZ CA	AM DUPLICATION	
104.7	TRANSLATOR	KRXA (AM)	K284CZ	CARMEL VALLEY	AM DUPLICATION	
104.9	TRANSLATOR	KSFB (AM)	K285FA	WALNUT CREEK	AM DUPLICATION	
107.1	TRANSLATOR	KVIN (AM)	K296HL	MANTECA CA	AM DUPLICATION	
107.9	TRANSLATOR	KSCO (AM)	K300DD	WATSONVILLE CA	AM DUPLICATION	
94.5	TRANSLATOR	KSRO (AM)	K233CM	PETALUMA CA	AM DUPLICATION	
94.7	TRANSLATOR	KRRS (AM)	K234DD	SANTA ROSA CA	AM DUPLICATION	
95.5	TRANSLATOR	KSXY (FM)	K238AF	SANTA ROSA CA	HD2 DUPLICATION	
96.9	TRANSLATOR	KSRO (AM)	K245DJ	PETALUMA CA	AM DUPLICATION	
99.1	TRANSLATOR	KJZY (FM)	K256DA	SANTA ROSA CA	HD2 DUPLICATION	
102.5	TRANSLATOR	KZNB (AM)	K273CU	PETALUMA CA	SATELLITE REBROADCAST	EMF
103.1	TRANSLATOR	KLVR (FM)	K276FY	SANTA ROSA CA	SATELLITE REBROADCAST	EMF

103.5	TRANSLATOR	KSRO (AM)	K278CD	SANTA ROSA CA	AM DUPLICATION
105.7	TRANSLATOR	KRRS (AM)	K289AS	COTATI CA	AM DUPLICATION
107.5	TRANSLATOR	KZNB (AM)	K298AZ	SANTA ROSA CA	AM DUPLICATION

Diversity-wise, this is the most abysmal FM spectrum licensing regime anyone could have conjured. The FM band is similar across America. If satellite networks were regulated and AM migrated to DAB, we might have 40 low power stations representing every local community and culture in the Bay Area. The point here is program duplication and satellite-relayed rebroadcasting is an epidemic -- there really is insignificant "diversity" added to the airwaves since 1992. Radio's new tendency is to abandon the local public interest and seize upon eliminating local station staffs for satellite programming control. The problem with this, other than contravening 47 U.S.C. 307(b) transmission service requirements, is the industry is moving towards maximized cost savings via reused/duplicated content streams over the cost of creating new content. There is no intrinsic "market force" that will make broadcasters create new local programming responsive to the local community for each station -- it is solely a profit decision, or supplying duplicated programming on a secondary station to bolster brand recognition and charge higher ad rates (or in the case of certain NCE network rebroadcast, to propagate an ideology). The FCC should anticipate the industry moving further in this direction. The FCC should contemplate what regulation is required to maintain program healthy program diversity. In exchange for the stations generating substantial profit for their organizations or shareholders, those stations must also adhere to minimum standards for broadcasting in the local public interest, which include diversity of programming. With up to eight full power stations and unlimited translators owned by a common entity, increased consolidation of ownership, and NCE satellite-fed broadcasters not held to any limitations, radio diversity in general is much worse off than it was in 1992. Take into consideration that a radio listener likely once received fringe-listening stations from an adjacent market with a different station owner and a live DJ in

the booth 30 years ago (in the case of the Bay Area, this would be Sacramento/Stockton stations). On those channels now the fringe listener hears buzzing HD noise bleeding off the local channel to the adjacent channels, or a translator broadcasting duplicated programming from another local AM or HD-2- by the same owners of the full power stations. **Hence, this is another way diversity has dropped since 1992.**

III. FCC QUESTIONS.

The FCC asked commenters a number of questions concerning programming duplication within the NPRM:

Collectively, how do these changes [from 1992] affect the need for the radio duplication rule?

Due to the decrease in localism, elimination of the main studio, consolidation of ownership, and tendency towards consolidating programming, we are worse off than 1992. The programming duplication rule should be strengthened to counteract broadcaster tendency that would opt to save money with programming and rebroadcast another station, such as in the case of KFOG above.

Is it still needed to promote radio broadcast competition or programming diversity?

Since there is less competition as a whole than 1992, yes.

. Is our assessment of the increased competition and programming diversity within the radio broadcast industry correct?

No. It is a fallacy that choices have increased with translators. Translators only rebroadcast other sources of programming, and the actual increase of full power stations in urbanized areas -- where 80% of the US population is -- is non-existent, nominal, or the mere addition of NCE satellite programming networks. AM translators rebroadcasting on FM has provided duplicated market programming for the same AM stations that local listeners were once able to receive adequately in 1992. Low Power FM roll-out has been scarce. In San Francisco proper, there are only 1.6 FM frequencies devoted to LPFM.¹¹ In Oakland, there is 1.3 LPFM frequencies.¹² In San Jose, there is one LPFM frequency.¹³ The core Bay Area urban LPFM scene from Santa Cruz to Santa Rosa is consolidated onto eleven channels, three of do not work for short spaced/interference reasons:

96.1: KJTZ-LP/KACR-LP/KEXU-LP Sharetime (Alameda/Oakland), KPEA-LP San Francisco (i.e. Sausalito - Short Spaced to San Francisco co-channel translator)
100.3: KUVJ-LP Vallejo (Cannot serve Vallejo, Short-spaced)
96.9: KQEB-LP/KQEB-LP/KGPC-LP Sharetime (SF/Oakland) and KEPT-LP Hayward
97.7: KQWA-LP Walnut Creek
100.1 KEBX-LP Pacheco
102.1 KXSf-LP/KSFP-LP Sharetime
92.7 KCXU San Jose
92.3 KRJF-LP Santa Rosa
103.3 KCMU-LP Napa/KPCA-LP Petaluma
93.3 KXGY-LP Muir Beach (Short Spaced to co-channel SF Translator)
101.9 KPCR-LP Santa Cruz (inundated with co-channel interference from Monterey)

The artificial limitations placed on LPFM by the FCC has elicited a paucity of viable channels. It is unfortunate that all the frequencies went to programming duplication via translator and not community stations.

¹¹ 102.5 FM, and $\frac{2}{3}$ sharetime programming time on 96.9 FM (the other $\frac{1}{3}$ is in Oakland). (Note KPEA-LP San Francisco is in Marin County).

¹² 96.1FM and $\frac{1}{3}$ of 96.9 FM.

¹³ 92.5 FM.

Are there advantages to competition and programming diversity from giving radio broadcasters additional programming freedom?

No. It decreases the total content available on the radio. Broadcasters by nature will migrate to the lowest cost production of programming. A counterbalancing act from the FCC is needed via regulation now that the main studio rule has been eliminated.

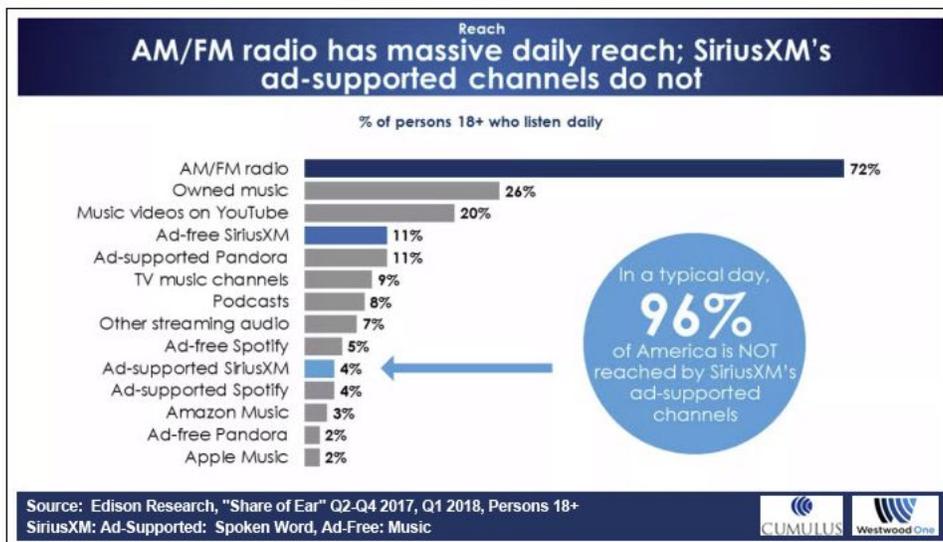
Or, alternatively, is the radio duplication rule needed to ensure continued competition and diversity, and if so, could elimination or modification of this rule potentially harm programming diversity?

Definitely. Due to deregulation (relaxation of ownership caps, elimination of the main studio rule, etc) the rules need to be strengthened and added to non-commercial broadcasters buying up channels in feeding them via satellite.

Do other sources of audio programming, such as satellite radio or digital streaming audio services, impact the analysis of the need for the radio duplication rule, and if so, how?

No. According to an Edison Research study,¹⁴ 96% of Americans **are not reached** by ad-supported Sirius XM. 72% of Americans **are reached** by radio daily. The same study states ad-supported Spotify is at 4%. See except chart below:

¹⁴ See "Despite Expansive Audience, SiriusXM Offers Little For Advertisers." *Inside Radio*. May 22, 2018.



Moreover, MusicFirst Coalition noted¹⁵ the following:

The Commission noted just two years ago that the record failed to demonstrate “that non-broadcast radio programmers [i.e., audio delivery platforms other than AM/FM radio] make programming decisions to respond to competitive conditions in local markets. As the Commission has stated previously, competition among local rivals most benefits consumers and serves the public interest.”¹⁶ The Commission found that “alternative sources of audio programming are not currently meaningful substitutes for broadcast radio stations in local markets.”¹⁷ Accordingly, the Commission chose to continue to exclude non-broadcast sources of audio programming from the relevant market for the purposes of competitive analysis with respect to the Local Radio Ownership Rule. The Commission concluded: “We find that the Local Radio Ownership Rule should continue to focus on promoting competition among broadcast radio stations in local radio listening markets.”¹⁸

¹⁵ *Joint Comment of MusicFirst Coalition and Future of Music Coalition*. Rachel Stilwell. FCC ECFS Filing, MB Docket No. 18-349.. April 29, 2019

¹⁶ See *2014 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, *2010 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Second Report and Order, 31 FCC Rcd 9864, at ¶ 94 (2016), citing *2002 Biennial Regulatory Review- Review of the Commission’s Broadcasting Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Report and Order of Proposed Rulemaking, 18 FCC Rcd. 13620 (2003).

¹⁷ See *2014 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, *2010 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, supra note 15.

¹⁸ *Ibid.*

Has there been consolidation in any aspect of the media marketplace, and if so, how does it impact our analysis?

As demonstrated above, incumbent full power station ownership, which has been greatly consolidated since 1997, own the majority of the additional broadcast facilities licensed since 1992 because those facilities are translators. Translators merely rebroadcast content that is already originating on full power stations. Hence, any “new” content on new facilities is either content in the market already, content via satellite, re-broadcasted weak-signal content. Hence content diversity from new parties is chiefly limited to Low Power FM, which is insignificant in coverage and numbers.

Should we also consider the impact of non-audio sources of information and entertainment, such as video providers, newspapers, and social media outlets, and if so, how?

If the FCC included newspapers, the total local content diversity is decreasing. Social media is not professional content. Television and video streaming are a different type of engaging content. Impact of radio listening back in 1992 was not judged from its impact of television; thus the Commission should not see television or streaming video to impact radio now. It should be noted that localism is decreasing in general, so that discourages eliminating the rule.

We also seek comment on whether elimination of the radio duplication rule would affect any other public interest goals articulated by the Commission; for example, the public interest goals of broadcast localism, competition and diversity.

As emphasized above, duplication greatly affect public interest goals, broadcast localism, competition, and diversity: This is actually enough FM spectrum to license new local

original content, but it is currently consumed by duplicated programming. It is a vastly inefficient regime.

We also seek comment on whether the elimination or modification of this rule would impact local news gathering and journalism, and how the elimination or modification of this rule could impact consumers who rely on local news for information about their community. Would the elimination or modification of this rule have any special impact on current or prospective station owners who are women or people of color and their ability to compete?

Yes. The elimination of content on an FM or AM station for duplication on AM or FM station eliminates a whole stations staff, narrowing the local job market. Furthermore, a station that might have been LMA'd to a minority broadcaster could simply just rebroadcast programming from another station if there was no duplication rule. Hence, it would discourage minority broadcasters who lease channels.

Should the Commission be concerned that absent the radio duplication rule, radio broadcasters will use spectrum less efficiently? Or, are the increased number of stations and demand for spectrum today sufficient to ensure that radio broadcasters use spectrum efficiently and supply varied programming to the local market so that the current same-service duplication rule can be eliminated or modified?

Yes. As in the case of San Jose, California, licensee EMF is seen broadcasting on seven channels via satellite. In recent years, EMF procured a family-owned broadcaster that had its antenna on Mt Diablo, serving several Sacramento Delta/San Joaquin Valley communities to the Bay Area, and moved it to cover San Francisco-San Jose. It also procured the local NPR/community station in Santa Cruz. Also, a classical-format broadcaster from Los Angeles (University of Southern California via KDFC San Francisco) ports classical music to the Bay Area on five channels¹⁹ -- one that displaced a prominent college station and one an

¹⁹ 90.3 FM, 89.9 FM, 92.5 FM, 104.9 FM, 103.9 FM

independent, local religious-programming licensee. Non-minority established entities with well-endowed money sources can afford to buy-up non-commercial channels that might have gone to new local non-commercial educational entities to produce local programming. Market forces do not stimulate spectrum to be used effectively or diversely. Also, there is a question of if market forces ever had relation to reserved channels. Because the U.S. airwaves are guided by a public interest licensing regime, regulation should be strengthened to uphold localism and diversity of programming. For example, the Bay Area has 20 channels used to rebroadcast AM stations. Take into consideration, for example, translator K241DC CP for KEAR (AM). Why does a 5 kW Class B AM station need an FM translator rebroadcast in close proximity to its well-received AM site? It is a channel that could have been used for a new, local, diverse Low Power FM. For another example, primary stations are using fill-in translators to duplicate HD-2 programming in the same broadcast area, and this practice is not even stipulated in the FCC rules. These fill-in translator stations dodge the ownership and market caps, yet can be as powerful as a full power station. An example is 250-watt/1196 m HAAT translator K288GY: Repeating KUDD HD-2, it effectively creates a **new Class C2 FM** station for Salt Lake City with an equivalent coverage of 65 LPFM stations. **What is the difference between two full power commercial stations duplicating programming, and a full power station and a fill-in translator duplicating programming -- or two NCE stations duplicating programming? There is none.** The general listening audience does not distinguish licensing classes. It is all entertainment or information. Whether it is commercial, non-commercial, or translator duplication -- the duplication stifles programming diversity. **Regulation via lobbying has steered this spectrum inefficiency and has created loopholes nobody talks about. The FCC should entertain translators and NCE stations counted within ownership caps and duplication rules. It is the same thing.**

IV. CONCLUSION

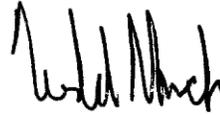
As demonstrated in this comment, the urban-area radio bands were chiefly built-out for full power stations into the 1980s (or previous). This is where 80% of the US population resides. Translators and religious NCE programming networks were the major addition to these urbanized areas within the last 20 years. Translators simply rebroadcast programming already created by incumbent broadcasters in the market. Given that incumbent broadcasters consist of highly-consolidated ownership, the same people who program the full power stations rebroadcast on the majority of the translators. The remaining translators go to the highest bidder -- a handful of satellite-relayed religious broadcasters who duplicate programming in multiple areas. Larger NPR stations and religious programming networks have purchased local college stations and hooked them into networks that have overlapping redundant programming. The introduction of urban translators and HD radio sidebands have blocked-out fringe radio channels that once had diverse ownership and different formats. Furthermore, because of the elimination of the main studio rule, broadcasters are choosing more to reuse content, streaming from centralized locations. The Commission originally allowed some duplication of programming when developing the rule in 1992 because it could save the local broadcaster money within expensive programming production. Circumstances have significantly changed today. Content does not need to be produced on reel-to-reel tape with specialized equipment, record players, tape machines, etc, and disseminated via broadcast microwave and satellite links. Content can be produced by as simple as a laptop and the internet via one person. The resultant of this is content production is a mere fraction of the cost that it used to be.

Because of the developments above, it would seem that the programming duplication rule should not only be retained, but strengthened. CFI recommends:

- Extending the program duplication rule to NCE stations. Duplication of programming broadcasts lock-out new, diverse, local entries.
- Extending the program duplication rule to FM translators in certain cases: (A) AM cross service translators should demonstrate a need for an FM translator by showing an unacceptable quality of AM signal reception. (B) FM licensees should demonstrate that a narrow need exists for duplicated programming on multiple FM channels within an area. (C) Satellite NCE rebroadcasting should be better scrutinized in some manner. This option would be an extension of the rule that is well within reason because NCE networks are forcing out local educational broadcasters and speculative non-commercial broadcasters to broadcast duplicated programming.
- Extending the programming duplication signal coverage area: Radio listenership is primarily in vehicles nowadays. Receivers have come a long way since the FCC F(50,50) method was created in the 1940's regarding sensitivity and selectivity. The FCC method also does not account for line-of-sight coverage. The duplication rule station coverage area should apply the Longley-Rice 60 dBu contour-edge coverage or the 54 dBu FCC contour of an FM station -- whichever greater. For an AM station it should apply to 2 mV/m daytime groundwave unless there is a corroboratable interference issue within that area.

Programming duplication is a significant overlooked programming/rebroadcasting issue. The FCC should consider augmenting its current programming duplication rule to tackle this problem. There is still a great demand for broadcast channels in 2020 from local and minority ownership. These entities are “locked out” of pursuing spectrum by incumbent entities that are not local and/or have redundant signals. Because the court has blocked the FCC’s radio incubator program, a better approach in a spectrum-congested marketplace, where no feasible new entrant entry-point exists, would be to scrutinize program duplication to a greater degree.

Respectfully Submitted by,

A handwritten signature in black ink, appearing to read "Todd Urick".

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