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Marlene Dortch, Secretary

Federal Communications Commission

455 12th Street SW

Washington DC 20554

RE: MB Docket No:18-119 Media Bureau Announces Notice of Proposed Rulemaking (NPRM) In the Matter of Amendment of Part 74 of the Commission’s Rules Regarding FM Translator Interference Published in the Federal Register

The last few years have seemed good for small broadcasters like me. It has appeared that the Commission cares about us and our service to the public. I pray this is not an illusion.

The Commission has widely acknowledged that FM translators have saved many struggling AM stations from extinction. My own AM station, KCXL has been used as an example. I will always be grateful to the Commission for making this possible.

While retaining the notion that FM translators are a secondary service, the Commission has publicly stated that they have become indispensable to both operators and listeners and should have at least some protection from arbitrarily being forced off the air. Many small operators, including myself, have invested as much as a years’ revenue in building them.

As presently released the new guidelines for the filing and mitigation of interference complaints do not provide as much peace of mind as I had been led to believe we would get. While the specter of the lone radio enthusiast, with special antenna and receiver, being able to force off the air a translator serving thousands of listeners has been addressed by the Commission, it is seemingly being replaced by rules which create an even more sinister specter which has no time limit on when in the future it will attack out of nowhere.

The new specter is that the proposed rules seem to encourage full service stations, with far greater financial resources, to seek the elimination of a translator at any time in the future. No exemption has been proposed for translators which have operated for over a year, or more, without active complaint. The proposed rules specifically prohibit a translator owner from making a payment to drop a complaint but seem to allow a full-service station, or even another party, to solicit, coach and pay cash to listeners for complaints. Is this fair treatment?

Lest anyone think that this type of thing will not happen frequently, I submit my experience where a large broadcasting company filed informal complaints against my applications to modify translators. While admitting that no violation of rules was proposed, they opined that granting the applications would give me an unfair advantage. Their complaints cost me thousands of dollars in legal fees just to respond to. Ironically, after one application was ultimately granted I received a call asking if I would forgive them and sell the translator to them. Indeed. Once finished with working out the details of the largest recent merger, will their lawyers on staff once again go back to using their down time to reduce competition in any way possible? This scenario can be eliminated by placing a responsible time limit of a year or two after which no complaints of interference could be filed, unless triggered by a major modification of facilities.

While the unfairness of subjecting existing translators to double jeopardy by facing a new set of rules with no time limit is my main concern, I ask the Commission to look at two other proposed rules which unfairly favor full service stations.

First is that in the Midwest region of the US, flat terrain and an abundance of 100KW stations makes the proposed 45 dBu protected service areas overly large and restrictive. Signals from already licensed full service stations can and do go a long way and from first hand experience will be confused as interference from a new translator. Frankly, while I know that many listeners will listen beyond the 60 dBu primary service area, few will put up with the static encountered beyond the 54 dBu secondary area. I suspect this is why the popular web site Radio-Locator.com uses 50 dBu as its’ criteria for “distant”. It would make sense to limit protection to 54 or even 50 dBu contour.

Secondly, should legitimate interference concerns arise, or a large company seeks to game the system, it would seem fair and reasonable that the required number of legitimate complaints be based on the total population of both the area served by the full-service station and the area served by the FM translator. This could prevent a small distant station from depriving unique programming to larger markets with a need for more diverse listening alternatives. Legitimate complaints should also continue to be filed under penalty of perjury. I have documented to the Commission in the past how some seemingly trustworthy citizens will sign anything put in front of them to help out a friend or business associate without thinking twice about its accuracy. While signing under penalty of perjury is a remote threat, it will make some people think twice before wasting the time of the Commission and harming another broadcaster.

To summarize my comments, I urge the Commission to act with fairness to please place a reasonable time limit of a year or two after which FM translator owners would not have to worry about the specter of interference complaints putting them out of business, to slightly reduce the definition of the protected service area of full time stations to 50 dBu, to look at the entire population to be served when deciding upon how many truly legitimate interference complaints is appropriate to consider and to require that all complaints considered be legitimate, under penalty of perjury.

Respectfully submitted April 29 by Peter E. Schartel