Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, DC 20554

In the matter of )

ASSESSMENT OF REGULATORY FEES ) MB Docket 16-166

FOR AM/FM RADIO AND TV )

Submitted by Robert Bittner, President of ‘Bob Bittner Broadcasting Co’ and “Blue Jey Broadcasting Co”, licensees of WJIB, WJTO, W252BT, WJYE, WLAM, WLVP.

**FOREGROUND**

In 1993, Regulatory Fees began. A certain industry group submitted to the Commission a graduated chart of a suggested fee structure for broadcast radio and TV, which appeared fair on first glance. Instead, it was a protection device for the highest billing stations. Unfortunately, no changes have been made to make it fair for all stations since then, until the 2016 proposed addition of a “greater than 6,000,000” population coverage. I applaud the Commission for adding this, however it is a very small step.

**CURRENT INEQAULITIES**

While the 1993-2016 graduated chart appears to look equitable according to station size, it isn’t. for these reasons:

1. AM –VS- FM: AM radio stations pay 64.9% of what FM radio stations pay. It is no secret that most AM stations bill far far less than 64.9% of FM stations’ billing. If you average all 32 AM fees on the proposed chart and you average all 16 FM fees on the same chart, the ratio is 64.9 to 100.0. - In Boston, for example, the average amount that AM stations bill is less than $3-million and for the average of FM stations, approximately $17-million. Therefore, the AM stations bill only 17.6% of FM stations. *Chart: AM’s have to pay 64.9% of what FM’s pay, but bill only 17.6% of what FM’s bill.*
2. DISPARITY AMONGST AM STATIONS: While the proposed chart does have four different fees for four classes of AM stations, the fees there are also way off. For example, in Boston the largest-billing AM station, WBZ(AM), has been known to bill $30-million annually. The average of all other Boston AM stations is usually less than $2-million each, with several at $1 million or less. That means the income ratio is 1 to 15 or 6.7%. The proposed fee for WBZ is $11,000. The proposed fees for Class B, C & D stations in the next lower population category (because the population B’s, C’s & D’s cover is less) average out to be $5,608. ($5,950 + $5,175. + $5,700 = $16,825, divided by 3 = $5,608.). That $5,608 is 50.9% of WBZ’s fee of $11,000. *Chart: Other Boston AM’s have to pay 50.9% of what WBZ pays, but bill only 6.7% of what WBZ bills. ----*Another example of a station that is not in the same universe is my commercially-licensed WJIB(AM), Cambridge, Mass, fully within the Boston market. My mission with WJIB is the preservation of old music; the standards and light 50’s-60’s pop music (the latter is disappearing on radio, too!). WJIB bills an average of only $103,000 annually (97% from listener contributions, and airing no commercials) and always breaks even +/- a couple thousand. WJIB’s 2016 proposed regulatory fee is $5,700. Again, WBZ’s is $11,000. WJIB’s regulatory fee is 5.5% of its income. WBZ’s regulatory fee is 0.00037% of its income. *5.5% -vs- 0.00037% !!*
3. DISPARITY AMONGST SAME CLASSES OF AM STATIONS: Class B AM stations nationwide for example: Some Class B’s have non-directional signals but at least half of them are directional requiring two or more towers. The added burden of the Class B AM stations’ directional antenna arrays (monitoring points, more lighting, tower-painting, occasional partial proofs, tech fees to keep them in tolerance) are significantly more costly to operate than non-directional Class B stations. Yet, similar-powered Class B stations usually pay the same regulatory fee amount.
4. NATIONWIDE, ECONOMIC CONDITIONS ARE DIFFERENT IN DIFFERENT AREAS: On the past and proposed Regulatory Fees charts, there are no accommodations for stations in depressed areas. Detroit is way different than Boston. Mississippi & West Virginia are way different than California & Massachusetts.

**MY FIRST SUGGESTION FOR EQUALITY**

For AM, FM, TV, I respectfully suggest that the 2016 Regulatory Fee chart be totally scrapped. In its place would be a form similar to a one-page tax return; also similar to what AM/FM radio had to fill out for ASCAP and BMI in the past few decades. “Line 1” would be the station’s gross income (identical to gross income shown on the most recent year’s IRS tax return). Lines 2 and 3 would be for NTR (non-traditional revenue’s expenses from non-on-air activities only) deductions such as any streaming fees, concert/event expenses; to be subtracted from Line 1. Line 4 would be the Regulatory Fee gathered from a chart such as:

Income of $0 to $100,000.00 - 0.30% ($200. minimum fee, for all incomes)

Income of $100,000.01 to $250,000.00 0.35%

Income of $250,000.01 to $500,000.00 0.40%

Income of $500,000.01 to $1,000,000.00 0.45%

Income of $1,000,000.01 to $2,000.000.00 0.50%

Income of $2,000,000.01 to $3,000.000.00 0.55%

Income of $3,000.000.01 to $5,000.000.00 0.60%

Income of $5,000.000.01 to $10,000,000.00 0.65%

Income of $10,000.000.01 to $20,000.000.00 0.70%

Income greater than $20,000,000.01 0.75%

---or whatever similar graduated percentages it would require to meet the FCC’s budget.

All stations would be included in this proposal, even non-commercial stations, since many non-commercial stations have quite an impressive income.

These graduated income-percentage rates are no different than the structure of IRS tax rates, as once a lot of money is made, it’s a lot easier to make more.

The *current* Regulatory Fee chart essentially says since the station has a certain type/size of facility in a certain sized market, the station *should* be able to pay a certain amount. This is akin to if the IRS was taxing a person based upon whether he/she went to college (higher rate) or just went to 6 months of trade school (lower rate). We know that doesn’t work well, as plumbers are doing much better than a very significant number of college graduates.

The above “First Suggestion” would work for AM/FM/TV broadcast media. I am uncertain if it would work for all other communication types that the FCC governs, and I am not advocating for any change to non-AM/FM/TV entities. However, AM/FM/TV should have an equitable rate structure, especially now since AM/FM//TV has so much new-media competition.

The Commission could require random scattered income audits to insure stations’ honesty, similar Commission’s current EEO audits.

**MY SECOND SUGGESTION FOR EQUALITY (LESS PREFERRED)**

If the above section is not feasible, then I request a straight across the board +/- 0.5%-of-income fee for all AM/FM/TV licenses. That would still be immensely more equitable than the current and proposed fee structure, but not as good as my First Suggestion.

**MY THIRD SUGGESTION FOR EQUALITY (PREFERRED THE LEAST)**

If my above two suggestions are also not feasible, and the Commission feels that it must stay with the current/proposed fee structure charts, then I request that the numbers be changed drastically (such as the [average] 17.6-to-100.0 ratio, AM to FM) to reflect a much wider range of fees, so that the often-struggling smaller stations get needed relief, and that the prosperous larger stations pay according to their much larger income, *thereby making a* ***REAL proportional*** *fee on all broadcast stations.*

Respectfully submitted,

Robert Bittner