

In the Matter of)
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Modernization of Media Regulation) MM Docket No. 17-105

M. Kent Frandsen hereby submits his comments on the Modernization of Media Regulation proceeding. I have been a broadcast station owner for over 40 years, and with my family own and operate over 20 stations in Utah, Idaho and Wyoming. In my long tenure as a broadcaster, I have seen the industry change greatly. Radio remains a very important source of news, information and entertainment to the communities that we serve. But, in recent years, we find that there are also more and more sources of news, information and entertainment to these communities. Even in smaller cities that we serve, listeners also are regular users of online media and even satellite-delivered programming.

While our stations have ramped up their own digital efforts to compete with the new media, this new competition demands that the FCC review the regulatory burdens that it places on broadcasters in a different light. I commend the FCC for starting this proceeding to seek comments to help it identify rules that are outmoded and unnecessary. When we are competing with media sources subject to different rules than those under which we play, we find that costs incurred in meeting regulatory demands, and limits on service imposed by those regulations, hamper our ability to fully and robustly serve our communities.

There are, no doubt, many rules that will be identified in this proceeding as being in need of reform. I look forward to reviewing in the near future the list of comments offered by others. But, for today, I want to suggest two changes to the rules that should be considered by the Commission.

1. Translator Origination Rules Should be Modernized

Translators have today become a very important way of serving the local community. We were perhaps the first broadcaster to use a translator to rebroadcast an HD signal, getting FCC permission to do so in order to provide widely-accessible coverage of local football games to one community in our service area when our main channel was covering games of another high school in a different town that we serve. We have also used translators in three of our markets to rebroadcast HD channels featuring Spanish-language programming to bring programming to underserved members of these communities, and used translators to help our AM stations reach listeners who, in some cases, are less inclined to visit the AM band to listen to the programming we originate there.

Despite all of these new and innovative ways of using translators that allow local broadcasters like us to expand our offerings, the rules regarding how translators receive their programming for rebroadcast are outdated. Currently, the rules require that fill-in translators be fed solely by terrestrial means, and that translators owned by independent owners that are outside our coverage area be fed solely by an off-the-air signal. A few of our stations that are carried on translators by independent organizations, including one on a translator owned by a nearby county that finds our programming to be a valuable service that they want to provide to their citizens. Over-the-air reception to these distant translators is subject to interference by weather conditions and other causes. Similarly, feeding our fill-in translators by “any terrestrial means” requires, in

some cases, the construction of microwave and other facilities to feed these translators, particularly as some serve areas that, in the mountainous terrain that we serve, cannot be adequately fed off air. In fact, given the AM interference issues that FM translators for AM stations are meant to help resolve, feeding these fill-in translators by other than over-the-air means is very important.

In all of these cases, it seems that the FCC should just allow translator feeds by any means available – including Internet and satellite transmissions. These technologies are available and can provide superior sound quality at low costs. Why should they not be utilized?

While the FCC may fear that the use of these technologies by commercial broadcasters could allow the transmission of broadcast signals far beyond their normal service area, that could be addressed simply by limiting their use to areas within some specified mileage from the primary station that could replicate the independent translator networks that may be available in rural areas – perhaps 150 miles. This would vastly simplify the feeds of the translators, improve sound quality for listeners, and be easy for the FCC to administer. We ask that the FCC consider this change.

2. Further Changes to the EEO Rules

Our companies recognize that having a station workforce that reflects the make-up of our communities is important so that our stations can remain in touch with all of the needs of the listeners who we serve. Certainly, the FCC should not tolerate discrimination in hiring by any licensee. However, now that the FCC has modified the requirements for wide dissemination of information about broadcast job openings to recognize that it is possible that all groups within a broadcaster's community can be reached by a single online recruiting source, we suggest that further reform to the FCC's practices with respect to EEO enforcement are in order. While we

believe that the Commission could leave EEO enforcement entirely to other Federal and State agencies specifically charged with that enforcement, taking EEO into account in considering the qualifications of a broadcast licensee only where there is an adjudicated pattern of discrimination, if that is too far for the FCC to go, we suggest that at least the FCC consider the reforms set out below.

The FCC's current EEO policy has three prongs – wide dissemination of information about job openings, notice about job openings to community groups that specifically ask for such notice, and the non-vacancy specific menu options designed to foster outreach by broadcasters to their communities to educate them about the broadcast industry and its employment opportunities. The FCC has already modified, through its April Declaratory Ruling, its wide dissemination requirements. But it has not modified the other obligations, nor has it changed its policy of auditing at least 5% of all broadcasters every year for their EEO compliance, with a new audit notice just released last month.

I suggest that the FCC revisit these additional EEO requirements. It is our experience that local organizations don't ask to be included on our distribution of notices of job openings. Reaching out to our community to provide education about broadcasting opportunities is something that most broadcasters do as a matter of routine. To stay in touch with the communities that we serve, our employees routinely engage with numerous community organizations. We don't need to be given menu options to engage with these groups – any successful broadcaster will be involved in community organizations regardless of any specific obligation. We should not be judged by whether we meet the specific menu options prescribed by the Commission – our performance in educating our community about the importance of broadcasting will be judged by the success of our stations.

The specific menu obligations for non-vacancy specific outreach efforts fall most heavily on the small broadcaster. While the rules do provide that big-market stations with large staffs have more numerous obligations than small market stations, in many small markets, the opportunities for outreach are far less than may exist in metropolitan areas, as there are simply fewer community groups with which to interact. Moreover, a large staff at a big market station may easily complete the menu options required of it, but smaller broadcasters with small staff may have a harder time completing the two specific educational obligations imposed on them.

In the past, most EEO audits concentrated on the wide dissemination aspect of the EEO outreach policy. Given the simplification of that obligation, it seems that routine audits are no longer necessary. The FCC does not randomly audit broadcasters for compliance with other rules. Why should the Commission pick out this specific rule and force a large number of broadcasters to bear the costs of responding to an EEO audit without there being any specific indication of any hiring issues at the station?

There are plenty of avenues to discover if there are EEO issues at a station. Both Federal and State agencies are available to monitor compliance with all hiring rules. If these agencies discover a pattern of discrimination, then the FCC can audit a broadcaster's compliance. But to impose the burden of routine EEO audits, and the obligations of the additional prongs of the EEO rules where there is no specific concern about discrimination at any particular station, seems to be an area crying out for review by the Commission. We request that you consider this area for further review.

3. Conclusion

As set forth above, we appreciate the opportunity to offer these proposals for changes in the rules, and ask that you consider the proposals made above.

Respectfully submitted,

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