

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

| | | |
|----------------------------------------------|---|----------------------|
| In the Matter of |) | |
| |) | |
| Modernization of Media Regulation Initiative |) | MB Docket No. 17-105 |
| |) | |
| |) | |

COMMENTS OF FAMILY STATIONS, INC.

Family Stations, Inc.¹ (“Family Stations”), by its undersigned counsel, files these comments with respect to the above-captioned proceeding. In April 2017, the Federal Communications Commission (“FCC,” or the “Commission”) requested public input on how to eliminate or modify regulations that are outdated, unnecessary, or unduly burdensome.² Family Stations believes that Section 74.1231(b) of the Commission’s Rules³ should be modified to eliminate the disparity between non-commercial educational (“NCE”) FM translators operating on reserved channels (Channels 201-220) and those operating on non-reserved channels with regards to the allowable means of delivery of primary NCE broadcast station signals to translators for rebroadcast. Accordingly, Family Stations believes that Section 74.1231(b) should be amended to permit NCE FM translators operating in the non-reserved FM band to receive the signal of the primary station it rebroadcasts by the same means as those afforded to NCE FM translators operating in the reserved band.

¹ Family Stations is a provider of religious programming nationwide, and is the licensee of 99 non-commercial broadcast stations – including 44 FM translator stations.

² See *Media Bureau Opens MB Docket 17-105*, Public Notice, DA 17-398 (rel. Apr. 27, 2017). See also *Commission Launches Modernization of Media Regulation Initiative*, Public Notice, MB Docket No. 17-105, FCC 17-58 (rel. May 18, 2017).

³ 47 C.F.R. § 74.1231(b).

The stated purpose of FM translators is to provide AM and FM radio broadcasters with the means to broadcast in areas “in which direct reception of [] AM or FM broadcast stations is unsatisfactory due to distance or intervening terrain barriers”⁴ Section 74.1231(b) of the Commission’s Rules provides in part that:

[A] [NCE] FM translator station that is operating on a *reserved channel* (*Channels 201-220*) and is owned and operated by the licensee of the primary [NCE] station it rebroadcasts may use alternative signal delivery means, including, but not limited to, *satellite and terrestrial microwave facilities*.⁵

Thus, a NCE FM translator operating in the *non-reserved* FM band may only use over-the-air transmission – whether from the primary station itself or from another translator – for the reception of the signal for rebroadcast by the translator. In contrast, a NCE FM translator operating in the *reserved* FM band may use any means – including satellite, microwave, or Internet transmissions – to receive its primary NCE station.⁶

Section 74.1231(b)’s prohibition on NCE FM translator stations receiving their primary stations’ signals via satellite facilities is exemplary of the unnecessarily complicated and unduly burdensome regulations that the FCC is seeking to streamline or eliminate in this proceeding. While this prohibition – originally announced in the early 1990s – was intended to limit the “economic impact of translators on full-service stations”⁷ and to “ensur[e] the development and

⁴ *Id.* at § 74.1231(a).

⁵ *Id.* at § 74.1231(b) (emphasis added).

⁶ See *Ernest T. Sanchez, Esq., Facility ID No. 18340DA, File No. BMPFT-20141001CIG*, Letter Order, DA 17-307 at 1 n. 2 (FCC Media Bur. Mar. 31, 2017) (“47 C.F.R. § 74.1231(b), which limits an FM translator station operating in the non-reserved FM band to over-the-air reception of its primary station.”).

⁷ *Amendment of Part 74 of the Commission’s Rules Concerning FM Translator Stations*, Notice of Inquiry, 3 FCC Rcd. 3664, 3761-62, ¶ 54 (1988) (stating that Section 74.1231(b) “was designed as part of the Commission’s traditional plan for limiting the economic impact of translators on full-service stations”).

expansion of local public radio service,”⁸ the restriction serves little purpose today given the maturity of NCE broadcasting and the large number of local public radio stations in operation.⁹

Today, there is no rational basis for distinguishing between NCE FM translators operating on the reserved and non-reserved bands in their method of receiving their primary NCE stations’ signals. The prohibition imposes additional regulatory costs and burdens upon NCE broadcasters without any perceptible regulatory or economic benefit. This, in turn, inhibits NCE broadcasters from providing equal access to NCE programming to all Americans – especially those residing in isolated or rural areas of the country.

NCE FM translators operating on non-reserved FM channels serve a functional purpose no different than their counterparts operating in the reserved FM band, i.e., enabling primary stations to expand the populations served. By eliminating this distinction, NCE broadcasters will be provided with greater flexibility and reduced costs in delivering NCE programming via satellite from their primary stations to their FM translators operating in the non-reserved band. Doing so will enhance NCE broadcasters’ ability to deliver NCE programming to listeners nationwide. Accordingly, eliminating Section 74.1231(b)’s meaningless distinction between FM translators operating in the reserved and non-reserved FM bands will ensure that all Americans – especially

⁸ *Amendment of Part 74 of the Commission’s Rules to Provide for Satellite and Terrestrial Microwave Feeds to Noncommercial Educational FM Stations*, Second Report and Order, 7 FCC Rcd. 5546, 5547, ¶ 9 (1992) (“our concern for maintaining a balance between the *public interest embodied in ensuring the development and expansion of local public radio service and increasing NCE-FM service by the use of translators* persuades us to retreat from our original proposal to allow *all* independently owned NCE-FM translators to use all forms of alternative signal delivery and to adopt, instead, a more limited relaxation of the signal delivery rule.” (emphasis added)).

⁹ The maturity of the NCE broadcasting market can be demonstrated by the fact that there has been an approximately 270.17% increase in the number of NCE FM radio stations between 1992 and 2017. *See Broadcast Station Totals as of March 31, 2017*, FCC News Release (rel. Apr. 11, 2017) (4112 NCE FM stations as of March 31, 2017); *Broadcast Station Totals as of March 31, 1992*, FCC News Release (rel. Apr. 3, 1992) (1522 NCE FM stations as of March 31, 1992).

those residing in rural or isolated areas – have expanded opportunities to listen to NCE programming.

Additionally, to fulfill the mission of public broadcasting, Family Stations proposes that Section 74.1231(b) be amended in such a way to permit NCE broadcasters to distribute a primary station's programming originating from sources other than that station's main studio simultaneously to other primary stations and FM translators that rebroadcast primary stations. Accordingly, Family Stations proposes the following amendments to Section 74.1231(b) – including the elimination of other unnecessary and outdated provisions (changes marked in strikethrough and italics):

An FM translator may be used for the purpose of retransmitting the signals of a primary AM or FM radio broadcast station or another translator station the signal of which is received directly through space, converted, and suitably amplified, and originating programming to the extent authorized in paragraphs (f), (g), and (h) of this section. However, an FM translator providing fill-in service may use any terrestrial facilities to receive the signal that is being rebroadcast. An FM booster station or a noncommercial educational FM translator station that ~~is operating on a reserved channel (Channels 201–220) and~~ is owned and operated by the licensee of the primary noncommercial educational station it rebroadcasts may use alternative signal delivery means, including, but not limited to, *Internet, and* satellite and terrestrial microwave facilities. *And if a primary noncommercial educational station distributes programming originating from a source other than its main studio, it may distribute such programming simultaneously to other primary stations and FM translators that rebroadcast primary stations. Provided, however,* that an applicant for a noncommercial educational translator operating on a reserved channel (Channel 201–220) and owned and operated by the licensee of the primary noncommercial educational AM or FM station it rebroadcasts complies with either paragraph (b)(1) or (b)(2) of this section:

~~(1) The applicant demonstrates that:~~

- ~~(i) — The transmitter site of the proposed FM translator station is within 80 kilometers of the predicted 1 mV/m contour of the primary station to be rebroadcast; or,~~
- ~~(ii) — The transmitter site of the proposed FM translator station is more than 160 kilometers from the transmitter site of any~~

~~authorized full service noncommercial educational FM station; or,~~

~~(iii) The application is mutually exclusive with an application containing the showing as required by paragraph 74.1231(b)(2) (i) or (ii) of this section; or,~~

~~(iv) The application is filed after October 1, 1992.~~

~~(2) If the transmitter site of the proposed FM translator station is more than 80 kilometers from the predicted 1 mV/m contour of the primary station to be rebroadcast or is within 160 kilometers of the transmitter site of any authorized full service noncommercial educational FM station, the applicant must show that:~~

~~(i) An alternative frequency can be used at the same site as the proposed FM translator's transmitter location and can provide signal coverage to the same area encompassed by the applicant's proposed 1 mV/m contour; or,~~

~~(ii) An alternative frequency can be used at a different site and can provide signal coverage to the same area encompassed by the applicant's proposed 1 mV/m contour.~~

This proposed language will provide NCE broadcasters with additional flexibility and cost efficiencies in distributing programming from their primary stations to their FM translators, which, in turn, will improve the quality of NCE broadcasting nationwide.¹⁰

¹⁰ Family Stations also takes this opportunity to propose the following clarification to the language of Section 74.1201(j) of the Commission's Rules to conform with the recent changes to Section 74.1201(g) concerning the coverage contour of an FM translator rebroadcasting an AM radio broadcast station as its primary station (changes marked in strikethrough and italics): "The area within the *greater* ~~lesser~~ of the 2 mV/m daytime contour of the AM radio broadcast station being rebroadcast and a 25-mile (40 km) radius centered at the AM transmitter site." *See Revitalization of the AM Radio Service*, Second Report and Order, 32 FCC Rcd. 1724 at ¶ 4 (2017) ("We therefore amend section 74.1201(g) of the rules to provide that an FM translator rebroadcasting an AM broadcast station must be located such that the 60 dBμ contour of the FM translator station must be contained within the greater of either (a) the 2 mV/m daytime contour of the AM station, or (b) a 25-mile radius centered at the AM station's transmitter site."). *See also* 47 C.F.R. §§ 74.1201(g) and (j).

Family Stations will applaud the FCC for considering its proposed amendment to Section 74.1231(b) of the Commission's Rules, and other issues pertaining to NCE broadcasting raised by other commenters in this proceeding. Such attempts at relief from the many unnecessary regulatory burdens placed on providers of NCE programming, such as Family Stations, will ensure that NCE broadcasters continue to fulfill the purpose of NCE programming.

Respectfully submitted,

/s/

Matthew H. McCormick, Esq.
Keenan P. Adamchak, Esq.
Fletcher, Heald & Hildreth, PLC
1300 N. 17th Street, Suite 1100
Arlington, Virginia 22209
Tel: (703) 812-0400
Fax: (703) 812-0486
mccormick@fhhlaw.com
adamchak@fhhlaw.com

Counsel for Family Stations, Inc.

Dated: July 5, 2017