

# The FM Translator Interference Conundrum

By **John Garziglia** - February 20, 2017



*(by John Garziglia)* Indiana Representative André Carson, whose Congressional district includes the Indianapolis radio market, recently wrote a letter to FCC Chairman Pai, seeking information on an FM translator interference complaint proceeding that has the potential to remove a popular Indianapolis radio station from the air. Chairman Pai responded with a letter of his own back to Representative Carson.

Representative Carson is highly concerned that a distant 6 kilowatt equivalent FM radio station 80 miles from Indianapolis is seeking to deny FM

service to local Indianapolis radio listeners. Representative Carson writes that the FM translator carrying "The Fan" is a "centerpiece in my District broadcasting professional and amateur sports including the Indianapolis Colts, Indiana Pacers and high school football" (If only all Senators and Congressmen could be equally supportive of local radio stations!).

Representative Carson is concerned that the FCC too quickly is giving credence to a mere handful of alleged radio listeners far outside the service area of the distant FM station with the result that local Indianapolis FM radio service from "The Fan" will be denied to an exponentially greater number of local radio listeners. Representative Carson writes that he "would like to ensure that this matter is resolved without any disruption of service to my constituents who rely on [The Fan] for their sports, weather and news content".

Chairman Pai, in his response letter, did not indicate how the FCC would insure the continuation of service from the FM translator rebroadcasting "The Fan".

Many years ago, the FCC adopted rules in the 1990 FM Translator Report and Order prohibiting FM translators from expanding primary stations' service areas. The FCC referred, in particular, to what the NAB called the "Flagstaff situation". In the Flagstaff situation, FM translators carrying out-of-market signals were imported into Flagstaff dominating the ratings, and drove a local Flagstaff station off the air.

Today, however, in a full-circle perversion of the FCC's intentions to bolster local service, FM stations are using the same 1990 FM translator rules in seeking to extend their signals into distant markets. Distant FM stations are filing interference complaints against newly-instituted FM translators carrying local AM stations and HD sub-channels. These distant out-of-market interference complaints are threatening to deny local radio service to potentially tens of thousands of local radio listeners.

The 1990 FM Translator Report and Order was adopted at a time when FM translators only rebroadcast other analog FM signals as primary stations. FM translators then provided FM service to listeners who were unable to receive satisfactory FM signals due to distance and intervening terrain obstructions.

Today, however, FM translators carry AM primary stations as revitalization lifelines, and HD sub-channel primary stations with diverse programming. Each of these new services is a "fill-in area" FM translator serving local listeners.

Chairman Pai and the FCC should heed the Congressman's warning about not moving too quickly to remove radio service from potentially tens of thousands of local radio listeners based upon a small handful of complainants trying to receive a distant signal. It is an inequity for a distant station to shut down local radio service.

Local radio listeners to fill-in area FM translators need to be protected from distant station interference claims. No change needs to be made in the secondary status of FM translators.

Rather, a substantial number of local FM translator radio listeners in a primary station's service area should be favored against the loss of their radio service precipitated by an out-of-market radio station claiming several distant radio listeners in a variation of the "Flagstaff situation".

The removal of local service from potentially tens of thousands of local listeners based upon the complaints of but several listeners well outside the service area of a distant station is contrary to the "fair, efficient, and equitable distribution" of spectrum provisions of the Communications Act. Radio stations are authorized by the FCC under Section 307(b) to serve a community of license and a discrete service area encompassed by the station's licensed protected contour. Removing local fill-in area FM translator service based upon purported interference to distant FM station listeners well outside a protected service area unfairly, inefficiently and inequitably extends the distant station's weak signal to vast areas, and disfavors the substantial numbers of local radio listeners to the fill-in FM translator.



Further, the decision to shut down a radio station denying radio service to thousands of local listeners is too important to be decided at the FCC staff level as is now FCC practice. Rather, proceedings in which distant radio stations are seeking to extend their service areas at the expense of local radio listeners should be decided only by the FCC Chairman and the full Commission, and only then taking into consideration all of the equities of the situation.

Now before the FCC's staff are many FM translator interference proceedings in which a distant station presented interference complainants only to have the complainants turn out to be connected to the distant station through friends, family or employees. Such non-*bona fide* complainants raise significant questions as to the FCC's processes.

Under current FCC staff procedures, unverified complaints are taken as truth, complainants can refuse to truthfully answer as to their relationships with the complaining station, informal email exchanges take place between the FCC's staff and the complaining station, and it is suspected that many complainants are shells for the complaining station.

Now, a radio station owner or manager is encouraged to troll for complaining individuals to enable that radio station to extend its signal out to the "Owner's Contour" – that last gasp of radio signal coming through the FM hash. The FCC's FM translator interference rules were adopted decades ago to keep FM translators that carry distant stations from harming local service. They are now being used instead to harm local service at the behest of distant stations.

Local radio service to local radio listeners should not be lost due to a distant station owner attempting to extend his or her signal to that last gasp of the "Owner's Contour". It is time for a re-think of the FCC's FM translator interference rules and policies.

The equities now favor the local service provided by FM translators carrying AM and HD sub-channel primary stations. There has been a fundamental shift in the nature of fill-in area FM translators to which FCC policy and rules have not adjusted. Fill-in area FM translators are now vital to many communities and listeners. Local radio service provided by an FM translator should not be removed from the air by the FCC unless there is a significant public interest reason to do so, and the public would be significantly served by such a loss of service.

***John F. Garziglia is a Communications Law Attorney with Womble Carlyle Sandridge & Rice in Washington, DC and can be reached at (202) 857-4455.***



1. **Jeff Ziesmann/WNKR Radio** February 26, 2017 at 11:05 pm

I agree with Mr. Putney. Garziglia's position on this is outrageous. As the owner of one of those pesky Class A FM stations, we have had multiple incidents of translators interfering with us in areas where we have regular listeners. As an FCC attorney, Garziglia knows that a station cannot shut down one of these translators on fraudulent interference complaints. Indeed, the FCC procedure for this is cumbersome, with the burden of proof on the interfered with station. Names, addresses, commuting routes, interference nature and location and other pertinent data must be submitted for each and every complaining listener. Our experience is that this amounts to just about \$10,000.00 in legal and technical expenses every time somebody builds one of these translators on our channel just to "see if anybody notices or complains". The interfered with station cannot recover these costs and previous interference documentation is no bar to somebody trying to build another facility later that is guaranteed to create the same interference again.

So-called "AM Revitalization" has primarily consisted of the wholesale migration of AM service to FM through equally so-called "fill-in" translators. How comforting it is to me to hear Garziglia state that the "equities have shifted" away from our legal right to protect our multi-million dollar investment in a full power station and toward protecting a \$50,000.00 translator that is authorized only as a secondary service in our place.

The truth is that translators are creating an FM band as interference prone and over packed as the AM band. This benefits nobody. The effect of translators has been to effectively render the spacing tables between full power stations useless as a predictor of service area, jeopardizing every FM full power license holder's ability to retain coverage in areas they served effectively for decades before this madness began. If the FCC's goal is to move AM to FM, they need to re-allocate VHF TV channels 5 and 6 to the FM band. These channels have proven ineffective for digital television transmission. Expanding



the FM band to include these would allow vastly expanded FM service without the interference problems we are experiencing and would allow AM stations to apply for full power, protected facilities in the new portion of the band.

Translators these days have many uses. Non-commercial religious broadcasters use them to rebroadcast stations hundreds of miles from the primary station. Major groups, finding themselves at the ownership cap on FM in a market, use them to re-broadcast HD sub channels with programs aimed at "playing defense" against competitors, circumventing the caps and perverting the purpose of HD radio in the process. AM stations use them to put their AM programs on FM. The end result is a "wild west" mentality that threatens to turn the FM band into chaos. Consider that there are no antenna height restrictions on translators at all. You can run 250 watts as high in the air as you want if you can find a tall enough tower and nobody complains about it. This gives many translators coverage approaching that of a full power class A station! A full power station eighty miles distant from one of these super-translators can experience a loss of service to listeners caused by the creation of a large gray area where there is only hash caused by the full power station and the translator interfering with each other and neither station is listenable. This is real damage to the business of the full power station and Garziglia's contention that the complaints of listeners suddenly cut off from full power stations they have enjoyed for years are illegitimate and that they are "shills" for the complaining station is outrageous and insulting to all of us who have spent thousands of dollars resolving legitimate interference complaints. His condescending comment about a so-called "Owners contour" out to the "last gasp" of signal is equally offensive. Stations with unique formats in their market will have distant listeners because of the nature of their programming. Stations without unique formats generally will not. To imply that a full power station with a unique format should not have the ability to shield and retain those fairly distant listeners is a disservice to the listeners and is not in the public interest. It also effectively penalizes a broadcaster with a programming department creative enough to produce a unique format in the first place.

Finally, let us explore Representative Carson's specific complaint about a translator for "The Fan" in Indianapolis. Readers of this outside the Midwest should know that "The Fan" is owned by Emmis and operates

on the old WIBC AM facilities. This is not some under-powered daytimer. It is the most powerful AM signal allocated to Indianapolis-1070Khz, 50,000 watts day, 10,000 watts night. It is not a radio station with a coverage problem. Representative Carson and his voters are not "cut off from the programs of this popular station" over ANY FM translator! All they need do is switch their radio to AM, tune it to 1070 and listen to their heart's content. Unfortunately, Mr. Garziglia did not see fit to mention any of this when he was admonishing the FCC Chairman about shutting down interfering translators.

When you hear people that fear a "slippery slope" this what they are talking about. Garziglia's position, if adopted, would prevent full power stations from protecting their listeners and would effectively grant primary status to secondary services that were implicitly never intended to have it in the first place and that were explicitly constructed at the owner's sole risk. Radio Ink does a disservice to the industry and it's readers by publishing this biased and ill-informed article.

Reply



o

**Classic Rock Forever** March 1, 2017 at 11:19 pm

I agree with this response from Mr Ziesmann. It IS the legal right of a full-powered Class "A" station to protect its multi-million dollar investment over that of a rogue \$50,000 translator that is authorized only as a secondary service. The rules say the full-power station wins. So, WHY in the case of the Indianapolis translator that is interfering, has the FCC NOT taken them off the air already? At this publishing, the interference present from the Emmis translator has been ongoing for 15 months. Enough already!

Reply



o



**Fred Lundgren** March 2, 2017 at 1:41 am

Jeff,

Many of us on the AM band literally begged and pestered the Commission for 10 years to create an expanded FM band but it fell of deaf ears. It could have been so easy to accomplish but as usual, the FCC made the wrong decision after waiting too long to make any decision at all.

During these years, FM's licensees were perfectly happy to play their music and collect all the agency money until AM died on the vine. Almost all FM licensees were silent because their ox was not being gored.

Soon, a clean up of both bands will be needed. A ten year migration to an expanded FM band should start NOW and in time, all our pesky little translators will be eliminated.

Regarding interference, unless you can design an FM antenna that radiates in a perfect square, then every FM has some area outside its 54 db protected contour where a translator may be added.

In the real world, under certain conditions, FM receivers can hear clearly below a 48 db signal.

FM's licensees ignored the problem AMs were having with receiver quality because it was not their problem, even though it rendered some AM stations un-listenable below a 5 mV city grade signal.

Everyone in power at the FCC ignored Part 15 interference and overloaded grid interference to AM. Now, our problem is inside your house. Welcome to my world.

Your exhaustive comment included..."The effect of translators has been to effectively render the spacing tables between full power stations useless as a predictor of service area"... Your service area is your protected area if, and only if you can prove that you have legitimate listeners outside your protected 54 db contour and the current rules allow you to prove it.

Reply

2.  **Bill Putney** February 21, 2017 at 11:37 am

Translators are a secondary service in the FM band. They are meant to exist where they don't cause interference to full service stations. They get waivers from all kinds of spacing rules that were instituted for good engineering reasons. If there's interference, the FCC allows the translator frequency to be moved to resolve the interference. If there are no frequencies to move to, the spectrum was just too densely packed and it was poor engineering to attempt it in the first place.

"AM Revitalization" has taken no steps to revitalize the AM band at all, instead allowing AM owners to shoehorn new FM translators into the already overcrowded FM band in metro areas. These aren't little low power translators to fill in a coverage hole caused by terrain, these are above full service FM minimums power stations. These "translators" are not "fill in" they create an overlay of an AM station's entire service area. Call them what you like they aren't translators in the traditional way we understand them. They are full service FM stations that don't have to obey spacing rules.

If the FCC really wanted to write a blank check to AM ownerships they should have just opened an FM primary station window exclusively for AM's. That's what these are is an FM overlay of an AM station's coverage. Oh, wait... If these new full service stations had to obey all the rules they'd never find any spectrum to file on because it's too crowded in these metro areas. The AM revitalization translators are already a cheat of the system. The FCC has done what the AM's wanted in contravention of good sense and good engineering practice and now they complain because those pesky full service FM station's won't roll over?

The FCC long ago took "to serve in the public interest" out of their mandate and replaced their engineers with politicians. If the FCC is feeling swamped with interference complaints and if AM's who pushed a translator into a spectrum space that wasn't really there are feeling abused by the incumbent full service FM stations, they have to



understand that it was a logical outcome of the AM revitalization rulings the FCC made in concert with AM owners. Now going to their Congressmen and whining that they've been injured seems a bit contrived. But, I'm betting they'll probably get there way. Once the FCC caves in to a demand like this the precedent is set and flood gates will open. I'm sorry for the community based local AM's that get caught in this but I bet their engineer told them it was a bad idea. It may be the cynic in me, but could the parable of the "poor local station" be a stalking horse for getting a president set?

Reply