

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

In the Matter of)	
)	
Modernization of Media Regulation Initiative)	MB Docket No. 17-105
)	
To: The Commission:)	

COMMENTS OF REYNOLDS TECHNICAL ASSOCIATES LLC

Reynolds Technical Associates LLC (“RTA”) submits these comments in response to the Public Notice issued by the Commission on May 18, 2017 (FCC 17-58). The Commission has asked for input from the public concerning regulations which are outdated, unnecessary or unduly burdensome. RTA requests that the Commission consider the following rules and policies for elimination or modification.

1. Rural Radio

In MB Docket 09-52, *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, 26 FCC Rcd 2556 (2011), recons. 27 FCC Rcd 12829 (2012), the Commission created a presumption that any change in the community of license specifying a city within an urbanized area or that resulted in covering 50% or more of an urbanized area would presume to be service to the entire urbanized area. This policy reversed nearly 30 years of case law and is detrimental to localism, competition and diversity. It has served only to protect incumbent broadcasters in the larger markets from competing with new entrants. Commenters overwhelmingly opposed adoption of this policy and it has been universally unpopular among broadcasters ever since. Section 307(b) imposes an obligation upon the Commission to distribute frequencies among the various communities equitably, efficiently and fairly. **The statute requires the distribution of frequencies based on demand for their use.**

The Commission had always relied on a market demand approach to distribute frequencies. But the Rural Radio policy forces broadcasters to serve areas where over a period of time the demand for service may have declined, population may have shifted or the economy may no longer support the station. As a result, many large deserving communities are unable to obtain local service.

The Commission purports to justify the new policy by trumpeting the virtues of preserving rural service. However, there is no factual evidence that rural service is lacking or that demand for such service is not being met. Indeed, evidence to the contrary shows that in virtually every instance where a station moves from outside an urbanized area into an urbanized area, the previous (rural) service has been replaced by a new service and, in some cases, multiple new services that were not possible without the urban move.

In every market across the nation there are numerous suburban communities without local service. These communities have grown in past decades for many reasons including population growth, urban flight, new housing developments, shopping centers, transportation systems and various other reasons. Each community has its own character and unique qualities which set it apart from the central city or other suburban communities. Some are characterized by a concentration of ethnic or racial populations, some by military families, some by large business centers. Unlike the central city which usually consists of a diversity of cultural or ethnic groupings, these suburbs tend to be more homogeneous. Their needs are more easily defined and well suited for a radio station with a specialized program format.

Not all suburban communities develop at the same rate. Some have shown substantial growth only in the last decade. But the availability of radio spectrum for a suburban community rarely exists (unlike rural areas). When the spectrum does open

up due to a move by another station, for example, a suburban community may benefit. To allow some suburban communities to enjoy their own local service during the past 30 years but to cut it off those communities that have only recently undergone growth or only recently have found spectrum availability, is arbitrary and unreasonable.

On the other hand, there are numerous reasons why a station may desire to leave its community. For example, at the time the station commenced operations, it may have been the only station in town and was economically viable. However, over time, there may have been two or three additional stations added to the community and the station can no longer compete relying on such a limited advertising base and listenership. Or the community has declined in population in recent years and has become unable to support the station as businesses have moved elsewhere and residents have relocated. The Commission does not acknowledge this scenario at all. The Commission should consider these facts as part of the showing if the new proposed suburban community is otherwise eligible for a first local service. A station should not be forced to remain in a community if it can no longer support all of the stations operating there. Section 307(b) contemplates a distribution based on demand for service in a particular community. If the demand is not there, the station should not be forced to remain.

The station owner is the one who is best positioned to determine whether there are indications of support. It is the broadcaster who should decide to take the business risk based on its determination of local support and its ability to deliver on those expectations. The fallacy in the Commission's assumptions is that radio stations will not provide local programming when there are "economic incentives" to serve a larger audience. The fact is, broadcasters recognize that localism is the lifeblood of the station's

survival. It is what sets them apart from all other forms of delivery services. Broadcasters cannot ignore their communities without risking their station's viability.

2. Reference Coordinates

The use of reference coordinates is a carryover from the two-step rule making process whereby the allotment of a channel was made consistent with Section 73.207 spacing. Then an application was filed to implement the rule making allotment and could specify a short-spaced site pursuant to Section 73.215 or a non-short spaced site consistent with 73.207. When the one-step process was created in 2006¹, the Commission retained the need to demonstrate that an allotment set of reference coordinates would exist consistent with Section 73.207 and a separate set of coordinates could be specified for the actual transmitter site (both sets of coordinates could be the same). In some cases, in order for the allotment set of coordinates to comply with the spacing rule, it is necessary to relocate the reference coordinates of otherwise short spaced stations. This is a process that was commonly practiced when the two-step process was in effect but developed into an application process for the one step procedure. However, asking another station to file an application just to specify allotment reference coordinates on Form 301 when there is no facility change or modification to their authorization in any manner seems unnecessary and burdensome. In fact, it is worse than that. The experience that many station owners have had would be more appropriately called extortion.

¹ *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Rcd 14212 (2006); *recons pending*.

When short spaced station owners are approached, and asked if they would accommodate an application filing by consenting to a change in their reference coordinates, the response is typically how much money are you willing to pay? These stations are not incurring any expense at all (except perhaps a filing fee and application preparation) but they often ask for hundreds of thousands of dollars. This is an abuse of process tolerated by the Commission and can easily be eliminated. The solution is to allow the specification of a different set of reference coordinates by the proponent that demonstrates the allotment can be made consistent with Section 73.207 without the filing of an additional application by the short-spaced station. Extortion and abuse of process are eliminated. There is absolutely no impact on the affected station. Unnecessary and burdensome regulations are eliminated. This should not be controversial.

Respectfully Submitted,

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