

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

In the Matter of)	
)	
Proposals for a New FM Radio Broadcast)	MB Docket No. 18-184
Class C4 and to Modify the Requirements for)	
Designating Short-Spaced Assignments)	

COMMENTS OF EDUCATIONAL MEDIA FOUNDATION

Educational Media Foundation (“EMF”) hereby offers these comments on the Commission’s Notice of Inquiry (“NOI”) in the above-referenced matter. As detailed below, EMF cautiously supports the proposal of the Federal Communications Commission (“FCC” or “Commission”) to create a new Class C4 FM station. However, it does not support further liberalization to the use of Section 73.215 to allow for the creation of more short-spaced stations.

I. INTRODUCTION AND SUMMARY

EMF is a noncommercial broadcaster, holding licenses for more than 300 full-power noncommercial educational broadcast radio stations which operate in both the reserved and unreserved portions of the FM band. It is also the licensee of a similar number of FM translators, operating in communities large and small across the country. Given its extensive experience in operating both full-power stations and FM translators, EMF is well positioned to offer its comments on the Notice of Inquiry.

As set forth in more detail below, EMF believes the creation of a Class C4 station will allow many Class A stations to upgrade their service and be able to better serve their listeners with a stronger signal. However, there will be some disruption to FM translators, so the FCC

must provide such translators with as much flexibility as possible to relocate to new channels or otherwise address any interference which is created. In creating this new class of station, the FCC should first allow Class A stations which are fully spaced to all other stations to take advantage of the new rules. It should not downgrade any Class C3 station not operating above Class C4 limits until those stations are given a sufficiently long period in which to transition – we suggest 5 years. Nor should it allow other stations to be downgraded involuntarily to make room for new C4 stations.

EMF does not support the proposal advanced in the NOI to allow for the creation of more short-spaced stations using Section 73.215 by allowing such stations to protect full-power stations only to their actual contours, as opposed to the maximum power allowed for their class as mandated by the current rules. EMF believes this will only lead to more overcrowding in the FM band, degrading service and preempting the use of translators in areas in which they can now currently operate without interference.

II. DISCUSSION

A. EMF CAUTIOUSLY SUPPORTS THE PROPOSAL TO CREATE A CLASS C4 STATION

EMF cautiously supports the idea of the creation of a Class C4 FM station, allowing Class A stations in Zone II to increase power if they meet stated mileage separation requirements. In reviewing its stations, EMF believes about a dozen of its Class A stations could benefit from such an increase in facilities. EMF notes greater and greater competitive threats in the markets in which it operates. The FM band, as EMF noted in its Comments in MM Docket Number 18-119, is getting more and more crowded, causing increasing potential for lower-powered FM stations to get lost in the clutter. In some markets, FM translators with antennas on tall towers already have greater coverage greater than do some Class A stations.

The additional 3 dB increase in signal strength from the increased C4 power will improve reception of the Class A stations which can be upgraded. This improvement will help to overcome some of the competitive disadvantages from which these stations currently suffer. The stronger coverage can provide competitive benefits, particularly in automobile receivers where the “scan” button will be more likely to find stations with higher power levels. The increased power will also provide stronger penetration inside of buildings where building construction materials can impede the reception of weaker FM signals.

However, adoption of the C4 does come with some downsides. With the FM band becoming more congested, any increase in power by one station has the potential to preclude other opportunities on that band in the area surrounding the newly upgraded facility. With the adoption of a C4 class of station, one of the principal concerns will be interference with FM translators. In studying the effect of upgrades of Class A stations in a representative sample of areas in which EMF has translators, it appears that approximately 10% of our translators may be subject to new interference from upgraded Class A stations. While not all these translators would be forced to go off the air, all would suffer losses of some of their current coverage areas.

Given the potential for greater interference to a significant number of translators, the FCC should include in any Notice of Proposed Rulemaking that results from this NOI proposals for remediation remedies for translators who may be affected by the upgrade of Class A stations. Translators affected by a C4 upgrade should be allowed to accept greater levels of interference than permitted under current rules and should be permitted to cause small amounts of interference to the upgraded C4 station assuming such interference is in areas which do not currently receive service from the upgrading station (in those areas without regular station listeners so no listening habits are disrupted). The Commission should allow liberal site and

frequency changes by translators affected by a Class A upgrade, even if such a change in the translator's facilities would normally be considered a major change.

The Commission also asks about current Class C3 stations operating with facilities which would, under the C4 rules being considered, be considered to be C4 facilities – and whether such sub-power stations should be downgraded to C4 status at some point. EMF believes if a station is authorized as a C3 but is operating with significantly reduced power, there must be some significant reason they had not already maximized their facilities – whether restrictions on tower siting, financial issues or other matters. These stations should be protected as Class C3 stations for a substantial period of time to allow them to improve their facilities (e.g. 5 years to allow for the filing and grant of an application and the full three year construction period). If they have not been able to reach minimum Class C3 facilities within that transition period (absent some sort of tolling event, like a zoning controversy, which the Commission should construe liberally if a convincing demonstration of a real controversy can be made), the likelihood is the C3 will never be upgraded. Thus, after the transition period, such a facility should be protected only as it actually exists, as a Class C4 station.

However, the Commission should not allow prospective C4 licensees to seek the downgrade of other stations who are not at their maximum facilities – including full Class C stations which might otherwise be downgraded to a C0 stations. The ability to upgrade to a Class C4 should be considered a privilege which is available to only certain stations which meet all the mileage separations. It should not be considered a right carrying with it the ability to downgrade other stations. Some flexibility in the FM band is worthwhile preserving. As EMF and numerous other parties have shown in their comments in Docket 18-119 when arguing against the use of the 54 dBu contour as the limit of the protection to be afforded to stations

against translator interference, much listening to FM stations occurs beyond their protected contours. According to figures provided by commercial applicants in Docket 18-119, as much as a third of a station's audience can be found beyond the station's protected contour. These areas of substantial listening outside of the protected contours exist in part because not every station has maximized its facilities, and because FM stations have not all moved to the closest point they can to other stations on the same and closely adjacent channels. Not creating more spectrum congestion than necessary allows for more of this listening to both full-power and translator stations to remain unaffected by the changes proposed in the NOI.¹

The adoption of the Class C4 should not be used to justify any greater disruption to current listening habits than is necessary. A Class A station seeking to upgrade should either locate at a transmitter site where there are the separations required by the new Class C4 rules, or it should reach a voluntary agreement to move a station to which it might be short-spaced so as to reach those minimum separations. Otherwise, it should not be allowed to upgrade. The current owner of the Class A station either bought or applied for the station knowing it was a Class A. While an upgrade would certainly be advantageous to the owner, it should not be an entitlement which could lead to the disruption of the existing listening habits of the general public.

¹ As set forth above, EMF has supported the downgrade of C3 stations which operate below the maximums proposed for C4 stations only to preserve a clear delineation between stations of different classes, and only after a substantial transition period.

B. THE COMMISSION SHOULD NOT CHANGE THE RULES UNDER SECTION 73.215 TO PROTECT EXISTING STATIONS ONLY TO THEIR ACTUAL FACILITIES

The NOI also suggests Section 73.215 be amended so as to protect existing stations only to their actual contours rather than to the maximum facilities for their class as currently required by the rule. For the same reasons set forth in the previous paragraphs, further congestion in the FM band should not be encouraged as it has the potential to disrupt existing listening patterns of the radio audience. As set forth above, leaving some “room” between stations on the FM dial minimizes interference, and allows existing listening to stations beyond their protected contours to remain undisturbed. It also allows for the existence of translators and LPFM stations in spaces which may exist between full-power stations not operating at maximum facilities.

More congestion will result if stations are protected only to their actual contours, disrupting existing listening habits and translator operations. In a mature service like FM, where there is substantial service throughout virtually all the country, there is simply no public interest need to squeeze new or improved stations into the spectrum where it will disrupt the already existing service. In those few areas of the country where there is not substantial FM service, there is likely no need to rely on Section 73.215 to allocate new services, or translators and LPFM stations can meet any need which might otherwise exist. Given these concerns, EMF opposes the proposed changes in Section 73.215.

III. CONCLUSION

For the reasons set out above, EMF cautiously supports the creation of a new Class C4 FM station. However, in doing so, and in contemplating other changes to the use of the FM spectrum, the FCC should not take actions likely to disrupt existing listening habits of the radio listening audience, or actions likely to adversely affect FM translators.

Respectfully Submitted,

EDUCATIONAL MEDIA FOUNDATION

By: _____/s/

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DECLARATION

I, Sam Wallington, Vice President of Operations and Engineering of Educational Media Foundation, hereby declare under penalty of perjury, that these Comments were prepared by me or at my direction, and are true and correct to the best of my knowledge and belief.

A handwritten signature in black ink, appearing to read 'Sam Wallington', is written over a horizontal line.

Sam Wallington

Date: August 10, 2018