

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Amendment of Part 74 of the Commission's Rules)	MB Docket No. 18-119
Regarding FM Translator Interference)	
)	
)	
To: The Commission		

**REPLY COMMENTS OF
NORTH AMERICAN BROADCASTING COMPANY, INC.**

I. Introduction

North American Broadcasting Company, Inc. (NABC) is the licensee of WMNI-AM Columbus, Ohio (FIN 49110), WRKZ-FM, Columbus, Ohio (FIN 49107), WJKR-FM, Worthington, Ohio (FIN 60099) and (WMNI-AM) translator W236CZ, Columbus, Ohio (FIN 142835). As a small family owned licensee in a large metropolitan market, we feel compelled to comment on the issue of FM Translator Interference.

The Commission, as our designated guardian of a finite Radio Frequency spectrum, should be applauded in its ongoing efforts to maintain the integrity of the FM broadcast band. NABC has no doubt that the vastly increased number of translators has taxed the limited resources of the Commission. The delays in processing complaints of alleged interference have taxed the patience and the checkbooks of primary station and translator owners alike. Ultimately, the biggest losers in issues of interference between stations are the listening public. If our listeners cannot hear the programming that we produce, then our assigned mission to serve the public will fail.

With the mission of serving the public in mind, NABC believes that the local broadcaster is much better suited to serving the needs of the local listener than a distant signal, whether that signal be from a primary station or a translator. To that end, allowing AM signals to be rebroadcast on an FM translator has become infinitely valuable. We contend that an FM translator that is rebroadcasting the signal of a local AM station is much more capable of serving the local listening public than a much weaker distant signal of *any* type. In such cases, the principle of *de minimis* should be applied and the needs of the greater number of translator listeners should outweigh the vastly fewer number of listeners to distant signals. It is from this viewpoint that NABC submits these reply comments.

II. Allowing Translators to Move to Any Available FM Channel as a Minor Change to Resolve Interference

NABC agrees with the proposal to modify Section **74.1233(a)(1)** of the Rules to permit a translator to move to any available FM channel as a minor change in order to resolve interference to another broadcast facility. However, we also site the comment of Scott Fybush “the likelihood of real-world gamesmanship in which a translator operator could “manufacture” an interference case”¹ in order to simply improve the coverage of the translator. Therefore, we suggest that the translator *must* meet or exceed the minimum number of (primary station) listener complaints in order to be eligible for such a channel change.

Unfortunately, due to a crowded spectrum, changing channels is simply not possible in many metropolitan areas. NABC suggests that in situations where no available channels can be located, upon sufficient showing that no available channels exist within the current band, translators rebroadcasting primary signals (AM or FM, but not HD) be allowed to switch bands (non-reserved to reserved or vice versa) as a minor change in order to eliminate situations of interference.

III. Minimum Number of Listener Complaints

Recent cases have shown that translators can be removed from the air by as few as one unresolved listener complaint. Due to the reasons mentioned in the introduction, *supra*, NABC believes that the good of the many local translator listeners should outweigh the good of the few listeners to a distant signal. Thus, we agree in part with the modification to **74.1203(a)(3)** requiring a minimum of six (6) listener complaints. We believe this number to be sufficient in smaller markets. However, in larger markets with greater numbers of (local) translator listeners, six (6) is insufficient. We suggest that in Nielsen² rated markets, one additional complaint be required per each 100,000 residents above a minimum of 600,000. To clarify - a market with 700,000 residents would require seven (7) complaints, a market with 800,000 residents would require eight (8) complaints and so on. All complaints should be from uniquely different locations.

NABC strongly agrees with the comment of Cumulus Media Inc stating “the minimum number of listener complaints should be required to be filed within one (1) year from the date the FM translator station commences on-air operation.”³

¹ Comments of Scott Fybush on MB Docket 18-119 at 6.

² Nielsen information and measurement company.

³ Comments of Cumulus Media Inc. on MB Docket 18-119 at 4.

IV. Standardizing the Information That Must Be Included Within Listener Complaints

NABC basically agrees with the proposed addition of **paragraph (k)** to section **74.1201**. However, we ask for further refinement of the statement “that the complainant listens to the desired station at least twice a month”. Unfortunately this does not set an amount of listening time and we cite the comment of Charles M. Anderson “...that they listen to that station for at least one hour twice each week. The latter requirement is needed to prevent the gaming of the system by complainants who do not actually listen to a station regularly but who are simply accommodating the complaining station.”⁴ NABC believes that “one hour twice each week” may be excessive, but a *minimum amount of stated listening time* is preferable. NABC suggests that one hour twice per month would be more reasonable.

We also ask for further clarification of the statement “that the complainant has no legal, financial, or familial affiliation with the desired station.” We suggest that this includes long-standing advertisers. These relationships are often personal and financial thus compromising their objectivity.

V. Establishing an Outer Counter Limit for the Affected Station

NABC does not dispute the findings of EMF⁵ or iHeart Communication, Inc. et al.⁶ that stations frequently have listeners outside their 54 dBu contour. However, the locations of these listeners lies beyond the protected contour of even the most protected classes of FM stations. Should a *primary* station interfere with the reception of a desired station beyond its 54 dBu contour, there is no path for the desired station to protect these listeners. However, the fact that the desired station can accumulate and submit complaints to the FCC about alleged or actual interference from translators to listeners at *any* location effectively extends protection limits to infinity. Establishing a 54 dBu contour limit for protected stations against translators fixes a limit that provides a level of protection equal to or greater than that from primary stations. It does not diminish the long standing level of protection primary service FM stations have enjoyed. Furthermore, many translator owners are rebroadcasting their (primary) AM signals, a medium that seemingly has *no* protection against an ever increasing man-made noise floor.

In its comments, EMF states “The United States FM broadcasting allocation system, as defined and controlled by the FCC’s rules and policies, has created *de facto* protection zones around stations.”⁷ NABC asserts that while areas outside a primary station’s protected contour do exist,

⁴ Comments of Charles M. Anderson on MB Docket 18-119 at 3.

⁵ Comments of Educational Media Foundation on MB Docket 18-119 at 7.

⁶ Comments of Beasley Media Group, LLC, Cox Media Group, LLC, Gradick Communications, LLC, iHeart Communications, Inc., Neuhoﬀ Corp., Radio One Licenses, LLC/Urban One, Inc., Withers Broadcasting Companies on MB Docket 18-119.

⁷ Comments of Educational Media Foundation on MB Docket 18-119 at 4.

they are in fact not protected, *de facto* or otherwise. These spaces exist because of the FCC's (current and prior) rules and policies; however, if additional filing windows had been opened for low power facilities such as translators, LP100, or even LP10 stations, much less of this space would exist. Regardless, it is not *de facto* protected space.

NABC acknowledges that translators exist as a secondary service. This means that they do not receive displacement protection from primary stations who desire to relocate or improve their facilities. However, if primary stations are allowed to force the modification or shut down of existing translators *beyond* the protected contour of the primary station, the entire allocation system for both primary and secondary stations should be called into question. No one could argue that interference between primary stations beyond their protected contours doesn't exist. Could one actually argue that interference from a translator is any more obtrusive than that from a primary station? The vastly lower power of a translator station when compared to that of a primary station would argue against that. Therefore, to NABC it would seem logical that primary stations should not be able to complain about interference to their signals beyond their protected contours. Issues of *predicted* interference should be dealt with in the allocation process, not after a facility is authorized and constructed.

For Class A and Class C stations, the long established protected contour against interference from other *primary* stations is 60dBu while 57 dBu applies to Class B1 and 54 dBu to Class B stations. However, no contour exists for any class of station against interference from *secondary* stations. NABC submits that such a contour *should* be established and suggests that an additional "6 dB buffer" be added to the existing protected contours. Thus Class A and C stations would be protected to their 54 dBu contour, Class B1 to their 51 dBu contour and Class B to their 48 dBu contour. No listener complaints would be considered actionable if the alleged interference occurs outside these contours. NABC suggests that **74.1203(a)(3)** be modified accordingly.

Respectfully submitted

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