

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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

REPLY COMMENTS OF EMMIS COMMUNICATIONS CORPORATION

Emmis Communications Corporation (“Emmis”) submits these Reply Comments in response to the above-referenced Notice of Proposed Rulemaking (the “NPRM”).¹ Through subsidiaries, Emmis owns or holds controlling interests in fourteen full power radio stations and four FM translators in three major markets. Emmis is focusing these Reply Comments on a single narrow issue that appears not to have been directly addressed by the initial commenters in this proceeding. Specifically, in connection with any streamlined process the Commission may adopt for resolution of translator interference complaints, Emmis proposes that a translator licensee be permitted to employ undesired/desired (“U/D”) ratio methodology where appropriate to directly disprove the existence of alleged interference, without first employing remedial measures.

The NPRM’s proposals seek to streamline and expedite the translator complaint process through (1) strengthening and clarifying the “upfront” criteria for presumptively valid interference complaints and (2) once such a complaint has been lodged, removing listener involvement and reducing staff involvement in the resolution process by employing objective technical measures (specifically, U/D ratio methodology) to determine whether the translator operator has successfully remediated the interference. On the “front end” of the process, the

¹ *In re Amendment of Part 74 of the Commission’s Rules Regarding FM Translator Interference*, Notice of Proposed Rulemaking, MB Docket No. 18-119, FCC 18-60 (rel. May 10, 2018).

NPRM proposes to require a listener complaint to contain certain mandatory elements: (a) full name and contact information; (b) a “clear, concise, and accurate” description of the location(s) where interference is experienced; (c) a statement that the complainant listens to the desired station at least twice a month; and (d) a statement that the complainant has no legal, financial or familial affiliation with the desired station.² Additionally, the Commission proposes that a minimum number of listener complaints be supplied in support of an interference claim.³ The NPRM also solicits comment on identifying a certain signal strength contour of the complaining full power FM station beyond which that station may not claim translator interference to its listeners.⁴

With respect to the resolution stage, the NPRM proposes that a complaint satisfying the initial validity criteria will “presumptively establish[] interference at the relevant location, which must then be promptly eliminated by the translator operator using any suitable technique.”⁵ In evaluating whether remediation has occurred, the NPRM contemplates “removing the listener from the complaint resolution process by requiring the translator operator, once interference has been initially established through listener complaints, to submit a technical showing that all interference has been eliminated.”⁶ This technical showing would be required to be based on U/D ratio methodology, in addition to on/off tests “if appropriate and directed by Commission staff.”⁷

Emmis generally supports the Commission’s objective to “simplify and expedite interference resolution.”⁸ It does have concerns, however, insofar as the NPRM appears to

² NPRM, ¶ 19.

³ *Id.*, ¶¶ 15-16.

⁴ *Id.*, ¶¶ 23, 27-29.

⁵ *Id.*, ¶ 21.

⁶ *Id.*, ¶ 22.

⁷ *Id.*

⁸ *See id.*

envision that all initially valid interference complaints will automatically trigger remediation obligations on the part of the translator licensee. While Emmis agrees that an objective technical showing such as a U/D ratio study is a preferable and more efficient means of demonstrating a lack of interference, the NPRM seems to contemplate that a U/D ratio showing may be supplied by the translator operator only after it has attempted remediation. Thus, the NPRM states that the translator will be required to submit a U/D technical showing that “all interference has been eliminated.”⁹ Similarly, the NPRM states that “[a] translator licensee could use these U/D showings to demonstrate the parameters with which it could operate on its current frequency and not cause interference,” but indicates that “[t]hese showings would typically be submitted in conjunction with a modification application.”¹⁰ Again, the implication is that the U/D study would be permitted only in the context of a translator’s proposal to modify its facilities in order to resolve alleged interference.

There will undoubtedly be cases, however, in which—notwithstanding an interference complaint that meets the initial criteria for presumptive validity—the translator licensee can show through U/D ratio methodology that interference does not in fact exist at the complained-of location(s). It is important that such a showing be permitted before remediation, because the NPRM does not propose that listener complaints either identify the source of the interference or be supported by the same type of “objective technical showing” that would be required of translator licensees to show that the alleged interference has been “eliminated.” For instance, it is conceivable that in a given case, a requisite minimum number of individuals might certify that they are “regular” (*i.e.*, as proposed, twice-a-month) listeners of a desired full power FM station, but may be claiming interference at locations where the desired station does not actually reach a

⁹ *Id.*

¹⁰ *See id.* and n.77.

minimum listenable level (*e.g.*, a “regular listener” at work, but claiming interference at residence). A complaining listener may also be experiencing interference from a source other than the translator. In cases such as these, there is no reason for requiring the translator operator first to take or propose action to remediate interference that does not exist in the first place, or that the translator is not causing, and only then employ a U/D showing to prove that the alleged interference has been “eliminated.” Rather, a translator licensee, upon notification and service of a presumptively valid complaint, should be able to directly rebut that complaint and obtain its dismissal by a providing a U/D ratio study demonstrating that there is in fact no interference from the translator to remediate. This will help minimize back-and-forth between the translator licensee, the full-power station and complaining listeners, and thus will further serve the Commission’s goal of simplifying and expediting the resolution of complaints. Emmis urges the Commission, in any final rules it adopts in this proceeding, to clarify that a translator licensee may provide a U/D technical showing in direct rebuttal to an otherwise presumptively valid complaint of interference, without first having to undertake remedial efforts.

Respectfully submitted,

EMMIS COMMUNICATIONS CORPORATION

_____/s/
J. Scott Enright
Executive Vice President,
General Counsel and Secretary
Emmis Communications Corporation
One Emmis Plaza, Suite 700
40 Monument Circle
Indianapolis, IN 46204
(317) 684-6565

Dated: September 5, 2018