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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commissions
1919 M Street, NW
Washington, D.C. 20554

Re: MM Docket No. 96-62

Dear Mr. Caton:

On July 22, 1996, New World Radio, Inc. filed its SUPPLEMENT TO COMMENTS OF NEW WORLD RADIO, INC. in the above-referenced proceeding.

Enclosed herewith is an original and five copies of an ERRATUM to SUPPLEMENT TO COMMENTS OF NEW WORLD RADIO, INC., which corrects various typos and errors in punctuation contained in the original document and includes several footnotes which were inadvertently omitted in the final print-out of the document.

Should there be any questions concerning the enclosure, kindly contact the undersigned.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

By: James M. Weitzman

Enclosures

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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED
AUG - 9 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of	)	
	)	
Amendment of Part 73 of the Commission's Rules to More Effectively Resolve Broadcast Blanketing Interference, Including Interference to Consumer Electronics and Other Communications Devices	)	MM Docket No. 96-62

TO: **THE COMMISSION**

ERRATUM TO SUPPLEMENT TO COMMENTS OF NEW WORLD RADIO, INC.

NEW WORLD RADIO, INC., licensee of Radio Station WUST(AM), Washington, D.C., hereby submits this Erratum to its "Supplement to Comments of New World Radio, Inc." which was filed on July 22, 1996 in connection with the Commission's Notice of Proposed Rule Making ("NPRM") in the above-captioned proceeding in FCC MM Docket No. 96-62. The Erratum consists of the resubmission of the Supplement with correction of punctuation and typographical errors as well as the inclusion of several footnotes which were inadvertently omitted from the final print-out of the pleading before it was filed with the Commission.

Since such errors were found on multiple pages in the document, the entire document is being resubmitted, as corrected, rather than the mere furnishing of changed-pages. Accordingly, the attached corrected document should be substituted for the original as filed on July 22, 1996.

Respectfully submitted

NEW WORLD RADIO, INC.

By: _____
James M. Weitzman

Kaye, Scholer, Fierman, Hays
& Handler, LLP
901 15th Street, N.W.
Suite 1100
Washington, D.C. 20005

August 9, 1996

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20054

In the Matter of	)	
Amendment of Part 73 of the	)	
Commission's Rules to More	)	
Effectively Resolve	)	
Broadcast Blanketing	)	
Interference, Including	)	
Interference to Consumer	)	MM Docket No. 96-62
Electronics and Other	)	
Communications Devices	)	

TO: The Commission

SUPPLEMENT TO COMMENTS OF NEW WORLD RADIO, INC.

New World Radio, Inc., licensee of Radio Station WUST (AM), Washington, D C., hereby submits this Supplement to its comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding, FCC MM Docket No. 96-62, released April 26, 1996. As a licensee, New World Radio, Inc. has an interest in this proceeding which proposes amendments to the applicable blanketing rules.

A. Introduction

Blanketing interference continues to be an issue for broadcasters and consumers alike. As the number of broadcast stations continues to rise slowly and the almost geometric proliferation of consumer electronic devices continues unabated, the ability of the constantly increasing numbers of these devices to function properly in the high RF fields occurring near broadcast stations is called into question with great frequency. Regrettably, it is during challenging times like these that recent Commission "restructuring" has chosen to emasculate precisely those Commission offices such as the former Field Operations Bureau, now "Compliance and Information Bureau" ("CIB") and the Office of Engineering and Technology ("OET") which had the expertise and personnel resources that could have continued dealing with problems such as blanketing interference, receiver induced third order intermodulation effect and RF radiation matters as in the past. The current rulemaking proposal seems but a small part of the continuing thread running through Commission actions in technical areas like these: to do away with personnel functions which dealt with such problems on the local level, to divert resources from the relevant offices which deal with such technical issues, and to try to make up for

the thinning ranks of experienced and expert technical personnel by beefing up certain rules, establishing 800 numbers and issuing public notices, all to permit "remote control enforcement" from the Commission's Washington offices. These efforts, which seem more intended to mask the Commission's retreat from certain fundamental statutory responsibilities to regulate and administer rules regarding the spectrum and interference, will surely leave extra dollars available for establishing such new growths as the "Office of Workplace Diversity," "Office of Communications Business Opportunities" and "Competition Division of the Office of General Counsel," to name just a few. But just as surely, these actions will continue the Commission's creeping abandonment of its fundamental technical responsibilities in spectrum and telecommunications management.

B. Generally: The NPRM Disserves the Public Interest

This rulemaking, which proposes small changes to the existing blanketing rules, is another milepost along that roadway to the decreasing Commission involvement in effectively and fairly allocating responsibility for interference causation and resolution. While it opens with the statement that the NPRM is "designed to facilitate the resolution of broadcast blanketing interference problems" (NPRM at ¶ 1), the truth is that even if

adopted, it will fall short of any meaningful and positive change. First, it merely rejiggers and "consolidates" the existing policy and rules without adding much meaningful substance. It tinkers with the rules insofar as enforcement against transmitters is concerned but proposes no real fundamental changes which will result in decreasing the incidence of blanketing interference.

This approach virtually ignores (except in the case of the NPRM's single reference to possible consideration of interference standards for telephones) the major role which poor equipment design and absence of interference immunity measures play in the interference susceptibility of consumer electronic equipment. It is tantamount to blaming automobile body corrosion on mother nature's inclement weather, rather than on manufacturers' defective designs and failure to adopt adequate anti-rust protection measures.

Second, the NPRM proposes to address interference to new consumer communications devices by ratcheting up the pressure on broadcasters to include new classes of devices and uses among those for which broadcasters would be responsible. This is regulation devoid of any meaningful consideration or deliberation about the causes and prevention of interference and the proper

allocation of responsibility for any incompatibility between broadcast transmitters and such consumer devices.

In this proposal, the Commission adds yet an additional obstacle to the siting of broadcast station transmitters and new expense for broadcasters to shoulder in dealing with interference sustained by all manner of electronic devices manufactured in an unregulated environment and containing built-in, cost-driven deficiencies in their immunity to undesired signals. Already, broadcasters' searches for suitable transmission sites must run the gauntlet of FAA-imposed height ceilings on supporting structures, FAA RF protections for inexpensive aircraft receivers, local land use and zoning restrictions, environmental concerns, national historic preservation restrictions, terrain and/or conductivity suitability, minimum mileage separations and caused-and-received interference protection requirements, decreasing availability of land due to rapid urbanization of close-in areas and the natural animus of populations toward tall, lit and marked towers in their neighborhoods. The Commission, in apparent disregard of the challenges and obstacles posed by these restrictions, would propose to now increase the broadcasters' burden still further by adding additional classes of individuals protected from interference (such as dormitory students, hotel

guests and other transients) and increasing the period of liability for remedying such receiver-caused interference to beyond the current one-year period.

Almost none of these proposals serve the public interest. They change no fundamental elements which cause improper operation of consumer devices. They will not reduce interference. They will not establish standards for interference reduction in consumer electronic devices. They will not in any respect "stimulate various related industry manufacturers to begin to meet the challenge of producing components that are less susceptible to blanketing interference." NPRM at ¶ 28. For the past 20 years, these industries have pretended to be beginning "to meet the challenge" in numerous Commission proceedings, in Commission-sponsored industry interference task forces and in standards-setting committees. There is no such challenge; the remedies are long-established and well-known. The only challenge are "costs" that manufacturers steadfastly refuse to assume even for the incorporation of the most elementary and demonstrably effective interference suppression techniques in devices sold to the public. And this proposal will not reduce the Commission's burden of inveigling itself in the interference rule enforcement process. At a time of shrinking administrative resources, the

proposals seek to expand the breadth and scope of the rule and the devices, time periods and classes of individuals to which it would apply. This flies directly in the face of recent published admissions by the Commission and its staff that resolving interference complaints will be the responsibility of manufacturers and consumers. In a recent public notice, the Commission bluntly stated that it cannot resolve the problem of the thousands of complaints of interference to TV's, radios, audio systems, telephones, and other home electronics equipment because "the cause of this interference is the design or construction of these products and not a violation of any rule."[1]

Yet, in this proceeding, the Commission continues its stop-gap, ill-advised approach in holding spectrum hostage to inadequate receiver and electronic device design and to sacrifice its Communications Act mandate to ". . . encourage the larger and more efficient use of radio in the public interest . . ." on the altar of short-term economic expediency. It does so by placing burdens on operators of radio transmitters which are simply indefensible on technical grounds and which are clearly based on economic and political, not engineering, considerations.

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[1] Public Notice released April 5, 1996, FCC Mimeo No. 62332.

Sadly, these proposals reflect a lack of institutional memory at the Commission and its failure to take notice of the wise conclusions it drew, even begrudgingly so, in its very own inquiry into interference causation and remedies which was started 18 years ago. The Commission's own argument then is amazingly on target today as the introduction of more new and "sexy" wireless communications systems apparently have prodded the Commission to consider tinkering again with the blanketing rule and, in doing so, again favoring manufacturers of these equipments. The Commission said then

> "The incentive of equipment manufacturers to redesign their equipment is weakened or eliminated if, as interference problems arise, the Commission moves to eliminate the interference in other ways, for example, by placing responsibility on the transmitters . . . Not only is the incentive to manufacturers reduced but such action may inhibit the fullest possible use of the spectrum.[2]

Having recognized and stated less than four months ago that the cause of interference to consumer electronic equipment is the design or construction of such equipment, and having concluded, as stated above, that the redesign of such equipment to eliminate

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[2] Executive Summary of Staff Report on Radio Frequency Interference at Chapter IV, Section C, page 72, contained as appendix to Further Notice of Inquiry, General Docket No. 78-369, released July 16, 1981.

interference is unlikely and spectrum utilization is inhibited if responsibility for interference is placed on the transmitter, any change now in the rules, to expand broadcaster liability further rather than prescribing interference immunity standards for electronic devices and, particularly, the new wireless products which have yet to enter the marketplace, would constitute a blatant disregard by the Commission for the laws of physics, its responsibilities under the Act and its duty to try to accomplish the best for consumers.

The foregoing comments apply to the Commission's proposal generally. Following are our comments directed to specific aspects of the NPRM.

C. <u>The Commission's Stated Need for Clarification of the Rule</u>

The Commission states, at paragraphs 10 and 11 of the NPRM, that the Commission's staff "too often finds it necessary to correspond with complainants and licensees" because "licensees are misinterpreting their responsibilities under these rules." Unfortunately, this conclusion unfairly singles out broadcast licensees as the "bad guys" in interference situations. This seems to be a thread which runs through the Commission's consideration of particular blanketing situations and, indeed, its attitude toward blanketing interference generally. The first

inclination is to blame or burden the licensee.[3] While some licensees may, in fact, misinterpret the obligations placed on them for resolution of blanketing complaints within the first year, it is quite prevalent for complainants to believe that they are entitled to be free of all incidence of blanketing interference, however caused and regardless of the device affected. Thus, the same paragraph 10 that took licensees to task should also have stated that "many complainants are misunderstanding their entitlements under the rules." They fail to comprehend the right of broadcasters to transmit with sufficient power to reach a mass audience, providing certain spectral purity standards are met. Such complainants fail to understand that there is no right to be free of any and all interference or to make transmitters "go-away." If this were the case, one might be successful if he were to demand that fluorescent lights, lamp dimmers and gasoline engines be outlawed because of the noise they create on AM radios, that street lights be banned because of their obstruction of celestial night time

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[3] It may be understandable that the Commission focuses on licensees; after all, it regulates them and has considerable leverage and dominion over them. Obviously, this is not the case with private citizens who are not license holders and who have in blanketing cases not hesitated to cause their Congressman to direct letters to the Commission about such interference.

star gazing, and that frolicking children be kept off neighborhood streets because of the commotion they create for older people who are trying to nap.

Thus, the reason the Commission staff too often finds it necessary to correspond with complainants and licensees stems from basic misunderstandings or exaggerated views of both parties as respects their respective rights and responsibilities under the rules. But more importantly, the burden of the Commission in having to deal with licensees and complainants in these matters is primarily rooted in the inferior or nonexistent interference immunity of home electronic devices which pits broadcasters and other transmitter operators against complainants in the first instance.

D. Changing the Method of Calculating the 1 V/M Contour of AM Stations

The Commission states at paragraph 11 of the NPRM that the growing number of blanketing complaints prompted its initiation of the rulemaking proceeding with the objective "to provide refinements and clarity to the rules in order to facilitate resolution of broadcast blanketing interference complaints." The proposal to specify a separate and entirely new method of calculating the 1 V/M AM station blanketing contour not

only fails to meet such objective but runs counter to it and should not be adopted

Currently, the 1 V/M contour of virtually every AM radio station in this country is quickly ascertainable by the Commission, the licensee and the public. This is because depiction of the 1 V/M contour has been required in FCC Form 301 applications for construction permits. Thus, the files of the Commission's engineering staff, the licensee's consulting engineer and the licensee's communication counsel and the licensee's FCC public inspection file show the location of the 1 V/M contour calculated in accordance with the rules. For this reason, it is simply a matter of referring to the 1 V/M contour map on hand for any of these parties to ascertain where the station's predicted 1 V/M contour is, and from this, to know which complainants come within the scope of section 73.88 relative to resolution of blanketing interference.

The Commission now proposes to require complicated calculations or field strength measurements to be made in order to ascertain the location of such contour. Adoption of the proposed rule would immediately obsolete the previously established 1 V/M contour set forth in virtually ever station's files. The location will no longer be immediately ascertainable.

Rather, it will have to be either determined through expensive field strength measurements or calculated in each case through the use of a complicated, almost inscrutable procedure. The reason for this change and discarding of the longstanding 1 V/M contour, the identity of which has been immediately accessible to all parties, is the NPRM's statement that "a more realistic determination of the 1 V/M contour AM blanketing area would be reflected with this method." NPRM at ¶ 13. To our knowledge, there has been no evidence to suggest that use of the 1 V/M contour already depicted and available at each licensee's files has been unsatisfactory or has resulted in the material misrepresentation of the approximate location of the actual 1 V/M contour in a manner so as to disadvantage either the licensee or complainants in connection with the resolution of blanketing interference complaints.

Nor has the Commission prefaced its proposal to outlaw use of the established 1 V/M contour locations by demonstrating that the difference in the respective 1 V/M areas represented by the on-file contours and the measured/mathematically calculated contours would be so material, and the impact of such materiality on interference resolution would be so great, as to justify

upsetting current procedures which have seemingly not ever been themselves at issue in blanketing proceedings.

In the absence of any such showings, the change is unwarranted and unwise. First, it will eliminate a readily accessible and reasonable depiction of such contour presently available to all parties. As a result, no one will know where the applicable contour is until it is established by measurements or mathematical calculation. Neither of these will be either quick or inexpensive Field strength measurements require not only an extensive measurement program but analysis of the measurement data, usually by an outside consulting engineer. Similarly, the mathematical calculations proposed in the new section 73.1630 require a knowledge of antenna design and a facility for advanced mathematics that, in virtually all cases, will be beyond the capability of local contract or station technical consultants or technicians.[4] This will again necessitate recourse to an outside consulting engineer.

Thus, delay is a certainty. So is considerable expense which, for AM licensees, is something they can scarcely afford.

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[4] It is difficult to imagine any of the parties in a blanketing situation to be able to understand the procedure set forth in the proposed section 73.1630(a), much less be able to perform it, without employment of an outside consultant.

Numerous published surveys have reflected that the majority of AM stations in this country are not profitable. The burden of measuring or calculating anew will come at a time when AM stations will also be required to purchase new EAS monitors at a cost of several thousand dollars each.

Moreover, since the station licensees will have to undertake determination of the contour the same time when its location is material to their obligation to resolve blanketing complaints, this timing is not unlikely to raise inferences among complainants that stations can rig the outcome to their advantage. Complainants cannot be expected to hire their own engineers to verify the field measurements or mathematical calculations. Their relative disadvantage in this situation may inflame relationships among the parties. One cannot help but see the Commission becoming more, not less, involved in such situations, which is directly contrary to the Commission's stated objective in initiating the NPRM.

It is curious that in other situations involving, for example, FM and TV allocations and facilities applications, the Commission is scarcely concerned about improving its procedures to provide more "realistic determinations" of coverage or interference as it is here. Go-no-go mileage separations

frequently govern allocations and transmitter siting, irrespective of, and frequently despite, real world considerations. This is done in the name of administrative convenience, prompt determinations and conservation of scarce Commission resources.[5] In the case of AM blanketing contour determination, however, the limited private resources of licensees are apparently not so sacrosanct nor is the need of affected parties for an easily definable blanketing area considered so great as to escape the Commission's proposal to change the status quo to the distinct detriment of all concerned.

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[5] Indeed, the Commission not only discourages but even refuses to allow licensees to submit more "realistic determinations" of coverage, interference or the lack thereof in many cases. The Commission recently stated in a letter to an applicant's counsel:

> "The burden of proof lies on the applicant to establish that use of a supplemental method is warranted. Acceptance of supplemental showings involve complicated and extensive engineering reviews by propagation experts. These time-consuming reviews are inimical to efficient and orderly processing and delay the authorization of new services to the public by unnecessarily burdening the limited Commission resources...."

E. Changing the One-Year Period

The Commission inquires as to whether the rules should be modified for situations where blanketing occurs after the one year period. It suggests that this would cover new communications services and technologies that are introduced into established neighborhoods and become subject to blanketing interference. The answer is a resounding no. Why should the monkey be put on the back of transmitter operators simply because some entrepenuer brings new technological equipment to the public? Why should the broadcaster, who is otherwise complying with the spectural purity and power limitations of its license and the rules, be forced to deal with devices which manufacturers design and sell to their own specifications and without regard to its immunity to undesired signals? Why should transmitter operators be made the whipping boys for consumer complaints based on free market choices of the sellers and buyers of such merchandise? Once again, what is the entitlement of those manufacturers and users of such consumer equipment to be free of interference generated within their own products as a result of their free-will selection of such devices without regard to such

immunity? Perhaps one of the Commission's own engineers[6] said it best when he was interviewed by the American Radio Relay League for its April 26, 1996 Bulletin. The Commission engineer was commenting on the Commission's quiet termination of a failed pilot program that referred consumer electronics interference cases to local repair shops for resolution.[7] He said, "resolving interference problems will be the responsibility of manufacturers and consumers. We are separating the issue of interference from the issue of compliance. We are not in the television or telephone repair business. Consumers who buy an electronic device have the presumption that it ought to work when they buy it."

As the Public Notice stated, in most instances, the cause of the interference is the design or construction of these products and not a violation of any FCC rule. If new devices come into a neighborhood after the broadcaster has satisfied its one year obligation, the broadcaster should have no further responsibility. The interference is the fault of the device, not

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6 Jim Dailey, Engineer in Charge of CIB's Kansas City Office and Head of the Commission's Interference Privatization Task Force.

7 The program was discontinued because consumers simply refused to pay for interference elimination in their equipment.

the broadcaster's failure to operate properly. Manufacturers and consumers ought to be responsible for any problems caused by deficiency of the devices which are so introduced.

F. Coverage of Transient Residences and Housing

Extending the one year period in the case of transient lodging or residences similarly is unwise. It would subject the broadcaster to ongoing liability -- without fault -- for the deficiencies of equipment which meets no standard for interference immunity. Indeed, the equipment of those using transient lodging is in many cases, even worse from an interference standpoint than the average. Hotel guests frequently carry small inexpensive portable travel radios and personal type CD/tape players. Does the Commission now propose to bring these devices within the ambit of the rule? Does the Commission propose that the weekly waves of hotel guests to be entitled to the replacement of their cheap devices which the Commission would subject to broadcaster financial responsibility? Similarly, student occupancy of dormitories is constantly in flux. Students also bring to school inexpensive portable equipment, such as boom boxes, due to the short term nature of their stays. This equipment, among the worst from the

perspective of selectivity and interference immunity, should not suddenly become the responsibility of broadcasters.

G. Rendering Effective Technical Assistance

The Commission has a misconception about blanketing interference which is apparent in its discussion of effective technical assistance. It states that the proposed rule requires that a "licensee provide information and assistance sufficiently specific to enable the complainant to eliminate all blanketing interference, not simply that the station attempt to correct problems." (Emphasis added) The rule requires no such thing. The fixing of post one year problems is in the hands of complainants. While the station can furnish technical information or assistance -- help so detailed or "effective" as to even specify the core material of recommended toroidal chokes or the lead length of bypass capacitors in UHF or VHF receivers -- the actual implementation of these and other cures is not the responsibility of the station any more than the design of the device affected was within its control. This being the case, the continued presence of blanketing interference due to the consumer's failure to attempt or successfully effect the remedy suggested cannot therefore be laid at the feet of the station. To presume that

the station is in a position "to eliminate all blanketing interference" in post one year complaints, where the consumer must play a role, presumes required involvement by the broadcaster beyond the level of responsibility set forth in the black letter of the rule.

Not infrequently, the malfunctioning of some devices in high RF fields is so extreme that remedial actions are unavailing. Attempting to ameliorate interference in such devices is much akin to trying to fix corrosion by painting over rust. For an expert agency such as the Commission to even contemplate in this proceeding the total elimination of all such interference in all circumstances without regard to design of the affected equipment ignores reality and the laws of physics. Effective technical assistance may involve providing detailed technical information but it is no guarantor of an absolute fix. Nor should it be judged on that basis.

H. Eliminating References to High Gain Antennas

Interference complaints resulting from use of high gain antennas are excluded from coverage under existing §73.318(b). The Commission proposes to delete high gain antennas from the exclusion, saying that they have not been a factor in blanketing

interference problems. This is not true. High gain antennas increase the likelihood of front-end overload and desensitization of receivers from close FM and other transmitters operating at or near the design frequencies of such antennas. Indeed, not long ago, the Commission had a rather notorious case of a non-commercial, religious station's tower having been cut down by local residents whose homes were in the fringe area of TV station coverage. Many of these residents used high gain antennas to pick up television signals. The offending FM station was located within the same azimuth from the high gain antennas as were the TV stations. The antenna gain, use of booster amplifiers and insufficient receiver selectivity resulted in massive blanketing of the TV receiver front-ends.

Gain antennas serve the same function as booster amplifiers -- to increase signal at the RF amplifier stage of receivers. Thus, both are capable of causing or aggravating receiver malfunction.[8] High gain antennas remain a cause of exaggerated blanketing of inferior receivers. Their exclusion from the rule's applicability should be kept intact. Even if the Commission believes otherwise, keeping the exclusion causes no harm.

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[8] Booster amplifiers are themselves capable of being overloaded, which is also a problem.