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Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Honorable Charles E. Grassley
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20501-1501

Dear Senator Grassley:

Thank you for your inquiry on behalf of your constituent Kenneth Kraemer, Airport Manager for the Dubuque Regional Airport, regarding a proposed rule that may affect the placement and construction of facilities for the provision of radio and television broadcast services in the vicinity of the Dubuque Regional Airport. Your constituent's letter refers to issues being considered in a proceeding that is pending before the Commission. In MM Docket No. 97-182 the Commission has sought comment on a Petition for Further Notice of Proposed Rule Making filed by the National Association of Broadcasters and the Association for Maximum Service Television. In this proceeding, the petitioners ask the Commission to adopt a rule limiting the exercise of State and local zoning authority with respect to broadcast transmission facilities in order to facilitate the rapid build-out of digital television facilities, as required by the Commission's rules to fulfill Congress' mandate.

Mr. Kraemer acknowledges that the Notice of Proposed Rule Making does not propose to eliminate the requirement of compliance with the existing Federal Aviation Administration and Commission regulations regarding the marking and lighting of wireless telecommunications service towers. These are found in Part 17 of Title 47 of the Code of Federal Regulations. These regulations require that towers which are over 200 feet in height or are located near airport runways be registered with the Commission. Based upon recommendations of the Federal Aviation Administration, the Commission may require the painting and/or illumination of these structures in order to avoid a potential hazard to air navigation.

Because this proceeding is still pending, we cannot comment on the merits of the issues at this time. However, I can assure you that the Commission is committed to providing a full opportunity for all interested parties to participate. The Commission has formally sought public comment in this proceeding and, as a result, has received numerous comments from State and local governments, service providers, and the public at large. Your constituent's letter, as well as this response, will be placed in the record of the proceeding and will be given full consideration.

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At the same time, the Commission is actively pursuing initiatives that we hope will render any Commission action limiting State and local authority unnecessary. Commission staff, working with the Commission's Local and State Government Advisory Committee, is bringing together representatives of industry and municipal governments to discuss mutually acceptable solutions to the challenges posed by facilities siting. Chairman Kennard has stated that preemption of local zoning authority should be a remedy of last resort, and that the Commission should not consider preemption until the possibilities for constructive dialogue have been exhausted.

Further information regarding the Commission's policies toward personal wireless service facilities siting is available on the Commission's internet site at <http://www.fcc.gov/wtb/siting>.

Thank you for your inquiry.

Sincerely,



for Steven E. Weingarten
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

cc: CWD
j:\congress\9800596

REPLY TO:

REPLY TO:

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United States Senate

*WTB
12/18/97
97-510*

CHARLES E. GRASSLEY

WASHINGTON, DC 20510-1501

December 17, 1997

Ms. Karen Kornbluh
Director
Federal Communications Commission
Office of Legislative & Intergovernmental Affairs
1919 M Street, N.W., Room 808
Washington, DC 20554

Dear Ms. Kornbluh:

Enclosed please find a communication from Kenneth Kraemer regarding a Federal Communications Commission proposed ruling that may affect state and local zoning ordinances.

I would appreciate any assistance you could provide pertaining to this matter. Please mark your return correspondence to the attention of Dawn Latham when responding to my office.

Thank you for your attention to my request.

Sincerely,

Chuck
Charles E. Grassley
United States Senator

CEG/dl
Enclosure

Committee Assignments:

FINANCE
JUDICIARY

AGRICULTURE
BUDGET

CHAIRMAN,
SPECIAL COMMITTEE ON AGING

Dubuque Regional Airport



11000 Airport Road → Dubuque, Iowa 52003-9555 → 319-589-4128 → Fax 319-589-4106

Airport Manager
Kenneth J. Kraemer, A.A.E.

Airport Commission
Tom Baldwin • Doug Brotherton • Paul Finnmark
Mary Gronen • John Meridian

October 23, 1997

Federal Communications Commission
FCC Dockets Branch
Room 239
Docket No. 97-296
1919 M Street, NW
Washington, DC 20554

Re: NPRM (FCC 97-296)

Gentlemen:

It has come to my attention that the Federal Communications Commission (FCC) is proposing that any state or local zoning ordinance would be preempted if the FCC determines these zoning ordinances interfere with the installation of certain broadcast facilities.

This Notice of Proposed Rule-Making (NPRM) is important to the Dubuque Regional Airport because it will, if allowed to pass, grant the FCC authority to preempt zoning laws and provides no exception to this authority for ordinances in place to prevent construction of large structures in the vicinity of our airport.

I understand that developers of digital television (DTV) believe that state and local zoning laws are an obstacle to the accelerated implementation schedule the FCC has set for the construction of 1,000-foot antenna towers that are necessary to broadcast the new signal. These DTV developers have petitioned for this rule-making to allow the FCC the authority to preempt any zoning laws that may interfere with the rapid implementation of DTV.

While the proposed rule will require compliance with FAA obstruction-lighting requirements, no further mention of the potential hazard to aviation is contained in the NPRM. Many communities nationwide, including Dubuque, use zoning laws to prevent construction of tall buildings and other structures near an airport. There is no other recognition in the proposal that often the only means to prohibit construction of obstacles near airports are the very state and local zoning ordinances the proposal will allow the FCC to preempt.

The Dubuque Regional Airport is extremely concerned that the FCC proposes to remove the authority for state and local governments to determine what sites are suitable for the construction of 1,000-foot DTV towers. [Any proposal to usurp local zoning laws near airports compromises the safety of all aviation operations.] Without specific procedures in place to protect the safety of all aviation activities near airports, the FCC jeopardizes the Federal Aviation Administration's ability to effectively manage traffic at airports and deteriorates the ability of the airport industry and the FAA to provide safe air transportation.

The Dubuque Regional Airport requests that the FCC require all DTV developers to adhere to all zoning laws enacted to prohibit construction of these structures near airports. Please do not compromise aviation safety for the sake of rapid implementation of digital television.

Sincerely yours,



Kenneth J. Kraemer, A.A.E.
Airport Manager

cc: U.S. Senator Chuck Grassley
U.S. Senator Tom Harkin
U.S. Congressman Jim Nussle