

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

In re Petition for Rulemaking)	
)	
Low Power FM Advocacy Group)	Rulemaking No. 11753
)	
LPFM Licensees Propose Necessary Improvements to)	
the Low Power FM (LPFM) Radio Service)	

To: Media Bureau

Statement in Support of Petition

The Finger Lakes Alliance for Independent Media (“FLAIM”) hereby submits this statement in support of the general proposition in Low Power FM – Advocacy Group’s (“LPFM-AG”) Petition for Rulemaking in the above captioned proceeding (the “Petition”) to have the Commission reexamine the ability of full power FM stations to rebroadcast digital signals on FM translators in relation to the ability of LPFM licensees to effectively compete in the marketplace. While FLAIM does not take a stand on the specific proposal in the Petition, it argues that a reexamination of the policy is in order to allow for a more diverse and robust radio programming market.

FLAIM is a citizens’ organization of residents from in and around Ithaca, New York. The organization’s members coalesced around the idea that consolidation in the radio industry – and in the Ithaca area specifically – left consumers with an inferior product. Hoping to change the direction of radio consolidation in the Ithaca area, FLAIM participated in proceedings at the Commission in which it argued against several policies that allowed larger players to dominate the number of voices in a radio market. One of those policies opposed by FLAIM was the

Commission's decision to allow FM translators to rebroadcast the signals of a digital FM radio stations, including secondary digital signals.

In its *Digital Audio Broadcasting Systems*¹ decision, the Commission allowed digital FM radio stations to multicast programming streams on their digital signal. Although digital radios have not enjoyed considerable penetration into the consumer marketplace, that has mattered little to digital stations as they were able to have the digital signals rebroadcast on analog FM translators, enabling them to reach listeners through conventional radios. These FM translators became "new" FM stations in the minds of listeners, as consumers were unable to differentiate the rebroadcasting of a digital signal and the introduction of new programming on their radio dials.

The introduction of new programming streams would generally be something that FLAIM would support; however, the manner in which these "new" stations were brought into market actually decreased the opportunity for new entrants into radio markets. Larger broadcasters were able to use their FM translators and secondary digital signals of their digital HD stations to counterprogram smaller competitors. Using their sheer size, these bigger broadcasters were able to put pressure on small stations that had hoped to reach niche audiences. The small broadcasters were effectively pushed out of the market by the marketing power of the bigger stations. Once their competition was eradicated or forced to sell, the larger broadcasters could change the programming on FM translator to counterprogram other competitors. FLAIM was able to watch this chain of events play out in the Ithaca market.²

¹ Second Report and Order, First Order on Reconsideration, and Second Further Notice of Proposed Rulemaking, 22 FCC Rcd 10344, ¶¶ 33-38 (2007).

² See "Big Consolidation in Small Upstate Markets," NorthEast Radio Watch, Feb. 3, 2014, <http://www.fybush.com/nerw-20140203/>

Although competitors complained about the advantage given to these broadcasters, the Commission stated “[t]here is no current prohibition on FM translator stations re-broadcasting the alternate program streams aired on the parent station's digital transmissions.”³ The larger broadcasters were free to rebroadcast the digital signals of their FM stations on their analog FM translators as long as they simulcast their analog programming services on the associated digital signals and did not exceed local radio ownership limits through the use of time brokerage agreements.⁴ This was little comfort to the smaller broadcasters, who only saw what looked like well heeled licensees skirting the Commission’s ownership limits by introducing a seemingly endless supply of “new” stations in a market.

Although the impact of the Commission’s FM translator/digital radio policy on LPFM stations is unclear, FLAIM believes that the issue is worthy of exploration in any review of the LPFM service rules. Although the answer may not be to allow LPFM stations to operate as commercial stations as suggested by LPFM-AG, there has been little reflection on this policy as translators have become more and more valuable to broadcasters. AM radio licensees have seen the prices of FM translators skyrocket while they have become nearly essential for these licensees to compete. As has been discussed, FM licensees have been able to use FM translators to expand their market reach through the rebroadcasting of HD digital signals. If the current policy regarding FM translators is hindering the expansion of the LPFM service, further discussion of the policy should be elucidated to fully understand the impact on LPFM licensees.

For these reasons, FLAIM supports the LPFM-AG’s proposition that the Commission should reexamine its policy regarding the rebroadcasting of digital signals on FM translators.

³ See *Letter Decision* regarding Station W240CB, DA 10-702, ¶ 15 (released April 27, 2010).

⁴ *Id.*, see also *Letter Decision* regarding Station W277BS, DA 10-764 (released May 3, 2010).

Further discussion can only educate the Commission and concerned citizens such as the members of FLAIM on the diversity of voices in the radio industry.

Respectfully submitted,

FINGER LAKES ALLIANCE FOR INDEPENDENT MEDIA

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August 31, 2015

CERTIFICATE OF SERVICE

I, Nathaniel J. Hardy, hereby certify that on this date I caused the foregoing "Statement in Support of Petition" to be served by U.S. first class mail, postage prepaid, on the following:

Dave Solomon, Executive Director
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/Nathaniel Hardy/
Dated: August 31, 2015