

*Romar Communications Inc.*

Robert A. Lynch    Marcia E. Lynch  
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February 10, 1999

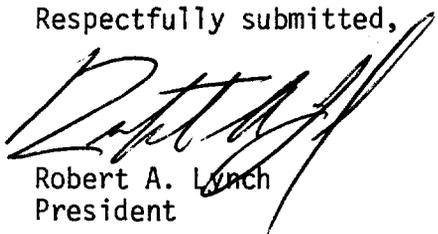
Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Ms. Salas:

Transmitted herewith are the original plus multiple copies of our company's Formal Comment in RM-9419, the Rulemaking Petition filed by the American Community AM Broadcasters Association proposing limited use of FM broadcast translators by AM licensees.

We trust you will forward the enclosed to the appropriate personnel for review in this proceeding. And we encourage your agency's thoughtful review of this proposal.

Respectfully submitted,

  
Robert A. Lynch  
President

Encl.

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

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FEB 11 1999

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In the Matter of: )  
 )  
Petition for Rulemaking to ) RM-9419  
allow limited use of FM )  
translators by AM broadcasters )

To: The Commission

FORMAL COMMENT

Romar Communications Inc. ("Romar"), of 175 Gray Road, Ithaca, New York 14850, hereby submits its Formal Comment on the above-designated Petition for Rulemaking ("the Petition") filed by the American Community AM Broadcasters Association ("ACAMBA") which, if granted, would enable qualifying AM licensees to utilize FM broadcast translators to retransmit AM programming. In general, Romar supports said Petition and urges the Commission to advance the ACAMBA proposal to the formal Rulemaking stage. For reasons to be discussed below, Romar believes limited FM translator use by AM licensees would serve the public interest by preserving and enhancing diversity of broadcast ownership and enabling hometown, stand-alone AM licensees to more effectively compete with their FM and AM-FM counterparts. As an alternative to the ACAMBA's proposal, Romar suggests the Commission also consider stand-alone AM eligibility for the Low Power FM ("LPFM") stations proposed in a separate proceeding, MM Docket 99-25. Romar's management trusts its opinions will encourage discussion of this issue.

BACKGROUND

Nearly a decade ago, Romar first advanced its opinions regarding potential AM licensee access to the FM spectrum. In a July 1989 letter to Mr. Alex Felker, then Chief of the Mass Media Bureau, Romar endorsed the proposal by Richard F. Arsenault to establish a new class A-1 category of FM stations for use by AM broadcasters. Romar supplies a copy of that letter as an Appendix. While the Arsenault proposal failed to advance beyond the petition stage, its provisions bear resemblance to the instant ACAMBA petition. Now, as then, Romar maintains secondary-status FM facilities would serve as a vital complement to an AM license.

Since 1987, Romar, itself, has sought to secure Commission approval for a new stand-alone AM broadcast station which would serve its chosen community of license, Lansing, NY. Its current application, file number 971126AH, remains before the Commission, awaiting a resumption in processing following implementation of MM Docket 98-11. Should the Commission approve Romar's AM application and subsequently adopt the concept of fill-in FM translators advanced by ACAMBA, Romar, should it qualify, would apply for an available translator frequency. By so doing, Romar would seek to achieve greater competitive parity with other local broadcasters which hold both AM and FM licenses.

As is a matter of Commission record, the undersigned, Romar's president, also serves professionally as a broadcast consulting engineer with the firm, Independent Broadcast Consultants, Trumansburg, NY. He has authored many broadcast engineering applications on behalf of his employer's clients and has prepared numerous FM translator proposals. He is fully aware of the allocation requirements for such translators and believes the

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ACAMBA petition, if adopted, would prove fully compatible with both AM broadcast and FM translator engineering standards.

PUBLIC INTEREST FACTORS

In its Notice of Proposed Rulemaking in MM Docket 99-25, that to establish Low Power FM stations, Commissioners acknowledge the continuing lack of diversity in broadcast ownership. Romar believes that shrinking number of individual voices may be blamed, in part, on the increased difficulty stand-alone AM broadcasters face in the consolidating radio marketplace. During the past 20 years in Romar's own market, Tompkins County, NY, the only two individually-owned AM stations each found it necessary to combine with larger firms. WTKO, Ithaca, the undersigned's former employer, filed for bankruptcy, was then bought by an FM operator in the market, then later combined with a still larger station group. WPIE, Trumansburg, founded early this decade, found stand-alone survival impossible, and finally sold out to an AM-FM chain based in a neighboring market. Had either station possessed access to an FM translator, a forced sale may have been averted. But loss of each has reduced the number of individual station owners in Tompkins County to a level not witnessed in decades. No doubt, other markets suffer a similar impact. In Romar's opinion, authorization of FM translators by AM stations could stem the decline.

In its Report and Order in MM Docket No, 87-267, the Review of the Technical Assignment Criteria for the AM Broadcast Service, the Commission acknowledged back in 1991 the substandard reception quality of most AM receivers at that time. In part, the Commission stated (see § 204):

*"We believe it to be self-evident that good receivers are essential to the success of any competitive broadcast service...Receiver manufacturers have chosen to emphasize adjacent channel rejection by strictly limiting receiver bandwidths and consequently severely reducing audio fidelity. The result is that, in many cases, the experience of listening to an AM receiver is comparable to using a telephone - suitable for conversation but not for music. This undoubtedly contributes to the notion that AM radio is best suited for programs favoring "talk" formats. AM broadcasters limited in their choice of formats and unable to demonstrate to their audiences that they can deliver programs competitive in technical quality with that of other aural entertainment sources will not be able to support the rich diversity and extent of broadcasting we have achieved in this country. Clearly, attention must be paid to the improvement of receivers."*

Today, nearly eight years later, we are still waiting for that attention to be given. In the afore-referenced Docket 87-267, the Commission declined to mandate AM receiver standards. Instead, the Commission stated it would publish at appropriate intervals lists of receivers which satisfied objective (NRSC-3) standards. To Romar's knowledge, no such lists have ever been published. The industry's much-touted "AMAX" initiative earlier this decade failed to take hold. And as most AM broadcasters and consumers will confirm, it's more difficult to find a stereo AM receiver now than in 1991. Since any market can only support a limited number of "talk" format stations, those AM operators unfortunate enough to lack an affiliation with a "Rush Limbaugh" or "Dr. Laura" usually find themselves at the bottom of the ratings heap, unable to pull themselves up with alternative formats that simply don't sound good on most AM receivers. By allowing such owners to access FM translators, at least in the short term, the Commission would assist stand-alone AM stations in their survival until that time when better quality AM receivers are manufactured and marketed.

Romar acknowledges that in the future, AM and FM broadcast reception may enjoy greater parity, especially should In-Band, On-Channel ("IBOC") digital audio technology be implemented in a form

applicable to both AM and FM. But such a day is years away. By that time, many current independent AM stations may vanish. These operators need help now. Nonetheless, given the potential advance in technology, Romar suggests the Commission may wish to revisit this issue perhaps ten years subsequent to the adoption of any Proposed Rulemaking to determine whether AM use of FM translators still holds merit. As such, any FM translator authorization for an AM broadcaster could be conditioned on the outcome of such a periodic review.

#### LPFM ELIGIBILITY

In a separate proceeding, MM Docket No. 99-25, the Commission has instituted a Notice of Proposed Rulemaking to establish rules for a new low power FM ("LPFM") service. Romar intends to comment in that proceeding. But in prior comments regarding a Petition for Rulemaking by Roger Skinner, Jr. to set up the LPFM service (see RM-9242), this commenter advanced the concept that certain stand-alone AM broadcasters be allowed to qualify for an LPFM license. To stem potential abuse, Romar urges strict limitations on eligibility for an LPFM license, including local residency for a majority of station ownership and stand-alone AM status forfeited immediately upon affiliation with any FM station or AM/FM chain. Should the Commission for whatever reason dismiss the concept of FM translator use by AM licensees, eligibility of said licensees for LPFM stations might prove a suitable, or even more effective, alternative.

#### TRANSLATOR LICENSING STANDARDS

In accordance with the ACAMBA Petition, Romar believes eligibility for "fill-in" FM translator use by AM licensees be

restricted to those owners with no attributable interest in any FM broadcast station within the market. Should the Commission wish to restrict eligibility still further, Romar would not object to stronger criteria prohibiting attributable ownership of an FM station in *any* market, or limiting, perhaps to no more than two, the number of AM stations the applicant could own in the pertinent market. The Commission could also establish local residency criteria, requiring the qualifying AM licensee's majority ownership reside within the AM station's 0.5 mv/m daytime contour.

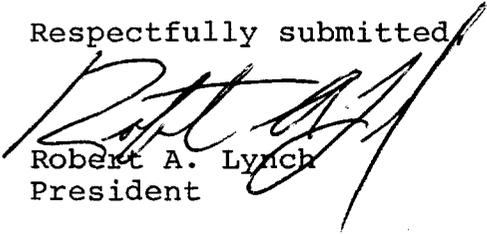
The ACAMBA Petition proposes AM stations eligible for FM translator use be limited in power to no more than 2,500 watts daytime and 500 watts at night. Romar maintains such a limitation is overly restrictive. Instead, Romar proposes a power limit of five thousand (5,000) watts daytime and/or nighttime. As a broadcast consulting engineer, the undersigned stands fully aware that many factors other than power, including dial position, antenna height, and soil conductivity, affect potential signal coverage. A 250-watt midwest station on 540 kHz. may serve more area than does a 10,000 watt New England station on 1600. A 5,000 watt day-or-night criteria establishes a reasonable benchmark compromise. Romar welcomes other suggestions. And it advances the concept that the lower powered station be awarded preference when multiple AM fill-in applications are received for a particular translator frequency.

CONCLUSION

To state the obvious, Romar's two owners, the undersigned and his sister Marcia, are passionate about AM. They grew up in the sixties listening to AM radio; each invested a significant portion of his or her career in the employ of AM stations; and both hope to own someday an AM station of their own. In many respects, AM radio is for them the preferred aural medium. AM has traditionally delivered the listener superior service and often developed a more intimate one-to-one relationship with its audience. But in the 1990's, AM has fallen on hard times, largely due to the noisy, low fidelity AM receivers on the market today. Should the Commission expand the eligibility for fill-in FM translators to AM station licensees under tightly controlled standards, hometown, listener-friendly AM stations stand a better prospect for survival into the next century.

Romar Communications Inc. respectfully requests the Commission thoughtfully consider all comments advanced in this proceeding and act expeditiously to move this proposal to the rulemaking stage. In its owners' opinion, FM translator use by stand-alone AM operators would promote the public interest by ensuring greater technical parity between AM and FM licensees, protecting a financially-endangered breed of broadcaster, and thereby preserving and enhancing diversity and local ownership of the airwaves. We hope the Commission will agree.

Respectfully submitted,

  
Robert A. Lynch  
President

APPENDIX

Romar Communications Inc. July 1989 letter to the Chief, Mass Media Bureau regarding Petition for Rulemaking to establish Class A-1 secondary FM broadcast stations for use by AM licensees.

(This material provided as background to Romar's comments in RM-9419.)

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## *Romar Communications Inc.*

Robert A. Lynch    Marcia E. Lynch  
175 Gray Road  
Ithaca, New York 14850  
(607) 272-8433

July 14, 1989

Mr. Alex D. Felker  
Chief, Mass Media Bureau  
Federal Communications Commission  
Washington, D.C. 20554

Dear Mr. Felker:

Romar Communications Inc. and the undersigned, Romar's president, wish to express their enthusiastic support for the Petition for Rulemaking by Richard F. Arsenault of Millville, New Jersey, said petition to establish a new class (A-1) of secondary FM broadcast stations eligible to licensees of stand-alone AM facilities. For the record, the following comments are intended to be directed only toward the merits of Mr. Arsenault's proposal and not toward any other matter Romar may have before the Commission or on which Romar may previously have commented.

As the applicant for a new full-time AM facility in Lansing, N.Y. (BP-870331AH, currently subject to Romar's Petition for Reconsideration), Romar Communications Inc. places special importance on the satisfactory outcome of Mr. Arsenault's initiative. Should its Lansing station be established and should the Commission grant Mr. Arsenault's request, Romar might, under appropriate circumstances, tender an A-1 application to further serve its community <sup>1/</sup>. Moreover, as a potential entrant into the AM broadcast fraternity, Romar maintains a sincere desire to undertake whatever efforts are necessary to protect and enhance the viability of the AM service, particularly as it relates to those licensees who rely upon AM as their only means of support. The undersigned serves as an allocations engineer with Independent Broadcast Consultants, Inc., Trumansburg, N.Y., and has acquired first-hand knowledge of the challenges facing stand-alone AM broadcasters. He knows of many for whom the Commission's action on this proposal could make the critical difference between success and failure. And while numerous suggestions have been advanced to facilitate AM's revival, those commenting herein strongly feel adoption of Mr. Arsenault's proposed rule changes would only stand to enhance the aforementioned objective and complement whatever other actions the Commission might take.

<sup>1/</sup> Lest there be any question as to this party's eligibility for an A-1 facility in view of its pending application for a new Class-A FM channel in Homer, N.Y., Romar wishes to note it is but one of four mutually-exclusive applicants for this channel; it holds no guarantee of securing the grant. Secondly, since its AM and FM proposals are sufficiently distant, Romar expects a Class A-1 station could be designed such that its contours and those of the Homer FM would not overlap so as to violate the petitioner's proposed rules.

July 14, 1989

Upon reading Mr. Arsenault's proposal, some might question whether by this action, stand-alone AM broadcasters seek a back-door approach to full-fledged FM service. In our opinion, such concerns are groundless. Due to its prescribed power limitations, any Class A-1 station created in accordance with Mr. Arsenault's plan would represent, both by definition and in practical reality, only a secondary service, designed to supplement, not replace, the AM station to which it's licensed. Its purpose can best be equated to that of a translator in the FM service, a facility with restricted coverage potential designed to correct certain limited inadequacies inherent in the licensee's main operation. In Romar's case, this analogy seems quite appropriate, since we would utilize an A-1 station primarily to fill in some of the signal minima which our daytime and nighttime operations would place over potential market area near the community of license. Should the Commission remain concerned that Mr. Arsenault's proposed maximum allowance of 1 kilowatt at 100 meters above average terrain constitutes too generous an allotment, we would still encourage adoption of the A-1 class with lesser power limitations, perhaps 500 or even 250 watts. As a practical matter, we suspect allocation restrictions would force many A-1 applicants to propose facilities far under the maximum allowed, anyway.

We sense that a second question may arise in the proceeding regarding the secondary status proposed for A-1 operations. But here again, we view the issue as no obstacle. No one suggests stand-alone AM broadcasters be required to establish A-1 facilities, only that they be afforded the opportunity to do so. The rules would be set beforehand, and each A-1 applicant would have ample warning of the allocation risks involved. All spots on the FM spectrum must remain available for full-fledged (Class A or better) operations, and to provide Class A-1 licensees anything better than secondary status would conflict with the public interest. However, from his allocations work, the undersigned has come to realize that insufficiently utilized pockets of FM spectrum still exist, each with spacing constraints too tight to accommodate a Class A station, but clearly suitable for less powerful authorizations. And should, for any reason, a reshuffling of allocations later preclude the opportunity for Class A-1 broadcasting use of a particular channel, this commenter believes an alternative channel could usually be found on which to transfer the service, often with only minimal cost to the affected licensee.

Fortunately for us, Romar Communications Inc. proposes establishment of its AM station in a market (Tompkins County) where the AM service is still relatively strong. And our willingness to embark on a new operation with a five-tower, two-pattern facility, should adequately verify our confidence in the long-range viability of AM. Nonetheless, there arises, even in our market, the question of equality in spectrum access, an issue Mr. Arsenault's proposal would successfully address. In Romar's instance, both of its potential AM competitors (WHCU and WTKO, both Ithaca) are owned by companies with high-powered sister stations on FM. One additional FM station, a stand-alone, is commercially licensed to the market, and two high-powered FM licensees enter from outside with distinctive formats. While it remains relatively easy for a stand-alone FM, with sufficient construction capital and engineering expertise, to design and seek a complementary AM facility, the challenge is much more difficult for an AM broadcaster wishing to incorporate an FM service. Differences in allocation rules often, as is the case in this market, preclude any new FM services whatsoever. While Mr. Arsenault's plan would not totally correct this inconsistency which places stand-alone AM operators at a disadvantage, it would provide such operators a limited degree of access to the FM spectrum, not only helping ensure their survival, but also allowing them a greater degree of competitive parity with the AM-FM combinations which share the marketplace.

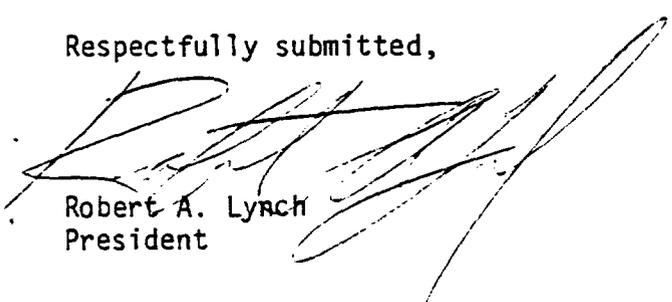
July 14, 1989

One additional item deserves attention in this proceeding, namely that of how this proposal will affect the overall diversity of voices within the broadcasting community. In recent years, the undersigned has observed that, especially in smaller markets, many of the applicants seeking newly-created FM broadcast channels represent, directly or indirectly, the licensees of existing stand-alone AM stations. While Commission rules would supposedly place such AM operators at a comparative disadvantage, the participating licensees often possess superior financial clout and utilize it to outlast or outmaneuver competing parties, or else buy off their applications directly. Such a practice not only syphons away scarce resources the AM licensee could more properly invest in programming to serve the public interest; the action also burdens Commission staff with otherwise unnecessary applications and, most importantly, limits the opportunities for other individuals, including women and minorities, to enter the realm of ownership and further diversify the medium. Should Mr. Arsenault's plan win Commission acceptance, stand-alone AM licensees would have less incentive to vie for new full-class FM channels, since these same broadcasters could secure, at much less expense, a secondary Class A-1 facility without the risk of competing applications.

Throughout its history and continuing today, the AM service has taken the lead in providing listeners the greater commitment to news, public affairs, and community service. The FM spectrum, meanwhile, due primarily to its technical capabilities and public image, has evolved as a music service. Both functions serve a valuable purpose. Nonetheless, the Commission must recognize its obligation to ensure the survival and foster the continued growth of that segment which has traditionally done the most to provide an informed and enlightened public. By allowing stand-alone AM operators a new, albeit limited, outlet for their offerings, this agency could give AM the shot in the arm it so urgently needs, thereby encouraging licensees to invest in their activities, strengthen their programming efforts, and develop a greater will and desire to compete head-on with their FM counterparts.

In conclusion, Romar Communications Inc. and its president urge the Commission to formally invite comment on Richard Arsenault's Petition for Rulemaking, follow that with its own Notice of Proposed Rulemaking, and subsequently incorporate the substance of this proposal within the Rules. At such time as further comment is encouraged, Romar stands ready to offer its remarks into the public record.

Respectfully submitted,



Robert A. Lynch  
President

c.c.: Mr. Richard F. Arsenault