

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Establishment of a Class A Television Service) **MM Docket No. 00-10**

To: The Commission

COMMENTS OF SHERJAN BROADCASTING COMPANY

Introduction. These comments are filed by Sherjan Broadcasting Company (“Sherjan”), by its President Sherwin Grossman. Sherjan is the licensee of low power television Station WJAN- LP, Miami, Florida, which operates 24 hours a day and provides Spanish language programming serving the Caribbean, Central and South America Hispanics in its community.

The station went on the air approximately six (6) years ago and has won numerous national awards for excellence in programming, including two Emmy awards. In 1998, Mr. Grossman received the award for Local News Broadcasting and was made a member of the Hall of Fame of the Community Broadcasters Association. In 1999, Mr. Grossman received the Governor’s Award from the National Academy of Television, Arts and Science, thereby receiving his personal Emmy award for his contributions to the industry.

In 1994, Mr. Grossman was elected president of the Community Broadcasters Association and in 1995 conceived of the idea of the Class A station. He personally worked with the staff of Congressman Charles Norwood (R-Georgia) in writing the Community Broadcasters Protection Act (“CBPA”).

Comments. Sherjan’s comments are set forth below, with the numbers to the left of

the comments matching the paragraphs numbers of the FCC's Notice of Proposed Rule Making in this proceeding:

4. The description of the LPTV industry is accurate and the diversity found in that industry is truly great. To quote Sherman Canard, "it's an oasis in the middle of the desert."

The problem is that in the LPTV industry, many people were granted construction permits ("CPs") even though they seemingly had no intention of building out the stations. Mr. Grossman personally knows of cases where LPTV licensees were assigned four letter call signs and are now simply sitting trying to sell the station. We do not want to see the same thing happen in Class A. It is not fair to the hundreds of validly operating stations where the licensee has put all of his or her savings into the station and is broadcasting quality programming to the local community in the public interest.

9. We submit that applicants for Class A status should be stations that are eligible for such status now and meet the criteria established in the CBPA. It is very important that Class A stations be recognized for how they operated before the CBPA was enacted.

The Commission suggests that it may allow new applicants for Class A on a case-by-case basis. It was Congress' intent that the law was made for those stations which are currently on-the-air producing local live programming, not translators. The Commission was given discretionary power to decide which non-qualifying stations should be approved. This power should be used very judiciously and sparingly, reserving it only for licensees in existence and operating their stations in compliance with the statutory criteria as of the date the CBPA was passed.

10. We agree that the Commission should retain the existing field strength values and protected contours.

13. Where full power stations are allowed to maximize their operations beyond replication, they should have to bear the cost for the Class A station to move to a new channel. The Commission may grant a waiver of any interference caused as long as both parties consent to such interference.

13. We think this is the only practical method of protecting contours. We are in favor of keeping the existing protection criteria. Digital Class A stations should be protected just as any other digital TV station is protected. There should not be any difference between a digital full power TV station and a digital Class A station.

13. We submit that the protected service contour of a Class A station should be the Grade B service contour. Any new station -- DTV or NTSC -- should protect Class A stations using the same interference standards (such as the *de minimis standard*) currently used by full power stations.

16. Applications for new Class A stations, beyond those that qualify for the status under the statutory criteria as of the date the CBPA was enacted, should not be allowed for at least a year and then only on a non-interference basis as stated in the CBPA.

18. We believe that there should be no waiver or eligibility at least for the first year. We estimate that between 300 and 400 LPTV stations qualify for Class A under the statutory criteria at this stage. Those stations should be given the opportunity to apply for Class A licenses and begin operating as Class A stations before others are given the opportunity to file similar applications in the future. Spectrum is very scarce and before future applications are allowed, it is important to know what the impact of those applications will be and have the processes established at the FCC to accommodate them.

19. We agree with the FCC's interpretation of "Market Area" as the station's protected

service area.

20. A community of license should be completely covered by a Class A station's service area, if a power increase is given under the CBPA which will give no limits to power as long as it does not interfere with existing stations. Class A rules should be incorporated under Part 73.

21. We feel that initially, as stated above, the standards for qualification for Class A should follow the CBPA very closely, at least for the first year of operation under the new rules. The only possible exception to this general rule might be for proposed Class A stations in Alaska, where there is no spectrum shortage.

22. We agree with the Commission's position on common ownership. Class A stations should be exempt from the duopoly rule and a full power television station should be allowed to purchase one Class A station in a given market.

23. We feel that the Commission should accept a Class A application for DTV operations under the non-interference standards set by the Commission. It is up to the Commission to decide when to accept new applications from full power television stations for DTV channels. We see no reason why the full power stations that do not have DTV channels cannot file for them, provided that the Commission require that all DTV applicants have to be on the air in a reasonable time.

24. At the last minute, just before the CBPA was passed, protection of a full power station's ability to maximize its DTV operation was written into the statute. Nonetheless, a future must be found for Class A. That future lies in allowing the use of channels 52-59 until 2006, when full power stations are scheduled to return their unused channels after the DTV transition. Thereafter, Class A stations can move into the Core (channels 2-51) when second

channels of full power stations are returned.

25. If the Commission were to allow full power stations to make the decision of which channel they are going to keep by 2004, this would give the Commission time to find available channels for Class A station in the Core in an orderly manner. There should not be any prohibition on authorizing Class A stations on channels 2-6.

26. It is very clear in the CBPA that Class A stations can only operate on a non-interference basis. For this reason, it is arbitrary to set low effective radiated power (“ERP”) limits, since in no instance can a Class A station cause interference. For example, WJAN is limited in power to the north to 125,000 watts, but if we could broadcast to 500,000 watts to the rest of the market, we would have a better quality signal and be able to provide a better service to the Hispanic community in our market area.

27. We agree that Class A stations cannot interfere with the transmission of full power stations in their Grade B service area, with LPTV stations and TV translators, or with applications for changes filed before such date. However, Class A stations should be protected against applications for full power NTSC stations, LPTV stations or TV translators that were not transmitting in analog format on November 29, 1999. Those applications are not required to be protected by Class A stations under the CBPA.

28. We concur that they would not be protected, as this issue was discussed when the CBPA was written. The Commission is correct in protecting the service area of Class A stations.

29. We concur with the Commission.

30. We concur with the Commission. However, where Class A stations can find a digital channel which meets all the technical standards, the Commission has to accept their respective

applications in accordance with the CBPA. Such a station should be allowed to go on the air with DTV service and choose its final operating channel at the end of the DTV transition period.

31. If a Class A station can find a DTV channel that improves its signal coverage in the market, it should be allowed to do so. Because it is so difficult to put a station on the air when there are no receivers, any Class A station willing to do this should be given all the help it can get, including enough construction time. Putting an NTSC station on the air with no receivers is a long hard fight.

32. We do not think that maximization applies to relocation of antenna sites.

33. We believe that full power television stations that file for DTV maximization should be required to build such requested facilities and not sit on the frequency. They should be given a reasonable amount of time to build.

34. Full power stations should not have the right to maximize until the DTV transition is over. If they decide to continue their digital operations on their analog channel and later ask for maximization, they will be able to do so as long as they do not interfere with other DTV stations. If stations are required to return the second channel, there will be channels available in the Core which can be used to maximize operations.

35. We concur with the Commission.

36. We agree but there must be a technical reason for not being able to collocate.

37. We agree with the Commission.

38. We should only count stations that are transmitting.

39. We concur with the Commission.

40. We concur with the Commission.

41. The CBPA was only intended to cover those LPTV's operating on November 29, 1999.
42. We concur with the Commission.
43. We agree with the Commission that Form 302 is the most appropriate form to use.
44. We concur with the Commission.
45. We believe that Class A stations should be able to apply for minor changes as long as the requested change does not create interference to the Grade B contour of a full power or DTV station.
46. NTSC full power stations have been in existence for as long as fifty years and for decades have had the right to maximize their facilities. Where the existence of a Class A station prevents the maximization of an NTSC facility, the Class A station should prevail in accordance with interference standards on a first-come, first-serve basis.
47. The protection of a Class A station should begin with the application for a Class A license. We believe that applications for minor changes should not be subject to a petition to deny filing period.
48. We agree to include as a minor change the on-channel digital conversion of a Class A station. Definitions of minor/major changes should be the same as for full power stations.
49. We concur with the Commission's finding here, except that the displaced station should be allowed to move to channels 52-59 until a Core channel can be found.
50. Displaced Class A stations should have priority over other LPTV and translator applications, if for no other reason than the investment in such a station's plant is so much higher than that of an LPTV station.
51. We concur with the Commission, except that a station should be allowed to use a

channel from 52-59 until a Core channel becomes available.

52. We concur with the Commission.

53. We concur with the Commission.

54. The CBPA provides that the Class A station shall not interfere with other services. It is therefore arbitrary to set a maximum power if the power level is governed by interference.

55. The Class A station should provide a Grade A signal contour over its community of license. To not do so leads to confusion among the public, who may attempt to view the station's signal when in fact they cannot do so. This prevents LPTV stations in distant communities from saying that they serve a larger community because it sounds better, but where the signal strength is not adequate to do so in actuality.

57. A Class A station has the same obligations that a full power station has operating under Part 73 of the FCC's rules, and should therefore be allowed to drop the -LP call sign suffix and replace it with a -TV suffix. Transmitters operating under Part 74 that cannot be updated should be allowed to be used. Any changes should be made under Part 73. The fees charged in the beginning should be no more than 5% of the fee charged to a full power station in the same market.

58. The original intent of low power television was to serve minorities groups and urban communities, small cities and rural areas. The original LPTV service was a success, but as cable coverage grew LPTV stations were damaged by lack of cable must-carry privileges in their service areas, and DTV allotment later created an even bigger problem. Many effects of DTV will not be felt until the year 2002-2003 when all the DTV stations go on the air, displacing most LPTV stations. The Class A license gives us an opportunity to save many

valuable LPTV services.

It would be a tremendous help to LPTV stations if full powers were required to select their permanent channels one or two years before 2006, so that channels can be selected from the remaining channels for use as Class A stations with power ratings of 500,000 watts NTSC or 50 kilowatts DTV. With more channels becoming available in 2006, many more Class A stations can be put on a single channel, along with full power stations. This will preserve a broadcasting service for local and minorities in future generations. Strict adherence to the CBPA in local origination would keep the number of Class A stations numerically low.

59. We concur with the Commission.

60. We concur with the Commission.

61. We concur with the Commission.

62. We concur with the Commission.

63. We concur with the Commission.

64. We concur with the Commission.

65. We concur with the Commission.

66. We concur with the Commission.

67. We concur with the Commission.

68. We concur with the Commission.

69. We concur with the Commission.

70. We concur with the Commission.

Conclusion. It is of the utmost importance that the Commission reserve Class A status for those stations that meet the requirements of the CBPA. All stations regardless of format meet the public interest, convenience and necessity, but all stations do not meet the

requirements for Class A status. Class A stations should be made part of Part 73 and should be considered "Broadcast" stations as defined by the FCC.

Respectfully submitted,

SHERJAN BROADCASTING COMPANY

/s/

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