

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D. C. 20554

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JUN 17 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. _____
Table of Allotments,	)	RM- _____
FM Broadcast Stations	)	
(Glen Arbor, Michigan)	)	

TO: Assistant Chief, Audio Division  
Office of Broadcast License Policy  
Media Bureau

**REPLY TO**  
**"OPPOSITION TO REQUEST FOR IMMEDIATE CONSIDERATION OF 'PETITION FOR RULEMAKING TO DELETE FM CHANNEL'"**

WKJF Radio, Inc. ("WKJF Radio"), licensee of FM Broadcast Station WJZQ, Channel 225C1 (92.9 MHz), Cadillac, Michigan, hereby respectfully submits this Reply to the "Opposition to Request for Immediate Consideration of 'Petition for Rulemaking to Delete FM Channel'" filed June 3, 2002 by George S. Flinn, Jr. In so doing, the following is shown:

1. "It is an old principle that justice delayed is justice denied". *Ungar v. Smith*, 667 F.2d 188, 195 (D. C. Cir. 1981); see also *Rohr Industries, Inc. v. Washington Metropolitan Area Transit Authority*, 720 F.2d 1319, 1327 (D. C. Cir. 1983); *Jack O. Gross (KJOG-TV)*, 69 FCC 2d 178, ¶ 23 (1977). WKJF filed its rulemaking request over two years ago, on April 24, 2000. All we want is an "up or down"

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ruling on that request. It is unlawful for the Commission to unlawfully withhold or unreasonably delay an agency action. 5 U.S.C. §706(1). The Commission has a legal duty to render an "up or down" ruling". WKJF urges that the Commission render that ruling within the next thirty days.

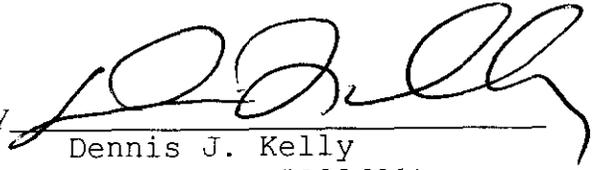
2. Flinn has temporized on his "singleton" application at Glen Arbor for almost five full years—that is, he filed his application on July 24, 1997, and today's date is June 17, 2002. The Commission's rules permit only a three year construction period. 47 C.F.R. §73.3598(a). It turned out that he was either unable or unwilling to amend his application so that it was grantable. Now that the Audio Division has dismissed Flinn's application, the fact that a "Petition for Reconsideration" is pending should not deter the Audio Division from issuing a "Notice of Proposed Rulemaking" relative to the deletion of Channel 227A at Glen Arbor from the FM Table of Allotments. The filing of such a "Petition" does not create an automatic stay under the Commission's Rules. Thus, Flinn's "Opposition" to our request is, at best, without merit, and in fact is utterly frivolous.

**WHEREFORE**, it is urged that this "Request for Immediate Consideration" **BE GRANTED**.

Respectfully submitted,

**WKJF RADIO, INC.**

By

A handwritten signature in black ink, appearing to read 'D. Kelly', written over a horizontal line.

Dennis J. Kelly  
(D. C. Bar #292631)  
Its Attorney

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June 17, 2002

**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing "Reply, etc." was served by first-class United States mail, postage prepaid, on this 17<sup>th</sup> day of June, 2002 upon the following:

Stephen C. Simpson, Esquire  
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Counsel for George S. Flinn, Jr.



Dennis J. Kelly