

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Digital Audio Broadcasting Systems	)	
And Their Impact on the Terrestrial	)	MM Docket No. 99-325
Radio Broadcast Service	)	

**COMMENTS OF CLEAR CHANNEL COMMUNICATIONS, INC.**

Clear Channel Communications, Inc. (“Clear Channel”) hereby submits its comments in response to the *Further Notice of Proposed Rule Making and Notice of Inquiry* (“FNPRM”) released by the Commission on April 20, 2004, in the above-captioned proceeding.<sup>1</sup>

**I. Introduction**

Clear Channel is the nation’s largest radio station owner and operator, programming more than 1,200 radio stations in local markets throughout the United States. The company thus has an enormous interest in the subject proceeding, in which the Commission seeks to develop a vibrant terrestrial digital audio broadcasting (“DAB”) service and establish rules for the implementation of in-band, on-channel (“IBOC”) technology. Indeed, Clear Channel has been in the vanguard of those broadcasters who recognize the many benefits – better sound, better reception, and new data services – that DAB in general, and IBOC in particular, has to offer listeners. Six Clear Channel stations currently broadcast IBOC signals, and the company plans to continue adding to that number as the transition to DAB progresses.

---

<sup>1</sup> *Further Notice of Proposed Rulemaking and Notice of Inquiry, Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service, FCC 04-99 (April 20, 2004).*

## II. The Transition to DAB Should Be Market-Driven

The transition to a DAB service is already well under way. As the Commission notes in the *FNPRM*, as of October 1, 2003, over 280 radio stations in more than 100 markets had begun broadcasting an IBOC signal or were in the process of converting. Several hundred additional stations are expected to initiate DAB service by the end of this year. In addition, consumer electronics manufacturers have begun selling digital radio receivers to the public, and in-dash DAB radios will be available for 2005 model year automobiles.<sup>2</sup>

The marketplace, not any government mandate, has driven the process thus far, and broadcasters and consumers must continue to dictate the pace of the transition. Unlike the ongoing transition to digital television (“DTV”) service, there is no congressional statute requiring the termination of analog radio broadcasting, and the Commission lacks justification to consider imposing a specific deadline of its own. No additional spectrum is required for stations to broadcast an IBOC signal. Thus, while reaching the ultimate goal of an all-digital radio service may yield certain benefits through signal compression, the transition phase remains spectrum-efficient. Accordingly, there is no overarching policy goal, as there is with the DTV transition, which would support the adoption of an analog sunset date for radio. Moreover, since IBOC technology will allow radios to be forward and backward compatible, the transition will inevitably advance as new DAB units are manufactured and sold, which will, in turn, encourage more radio stations to initiate IBOC service. The Commission should not attempt to short-circuit this process by announcing what at this point could only be an arbitrary and artificial end to the DAB transition.

---

<sup>2</sup> See *id.*, ¶ 13 & n.31.

### **III. The Commission Should Refrain From Imposing Rigid Service Rules on Terrestrial DAB**

Neither should the Commission seek to adopt rigid DAB service rules while the transition is still in a nascent period and while broadcasters are still attempting to determine how best to use the new capabilities that DAB offers. To do so would require a prescience that is not attainable, as the Commission itself appears to recognize through its tentative conclusion that a flexible service policy is in the public interest.<sup>3</sup> For instance, DAB will provide broadcasters with the ability to offer a high definition audio signal, multiple streams of digital audio programming, or a combination of audio programming and new data services. As DAB technology progresses, however, the amount of bandwidth necessary to offer any of these services will undoubtedly change. Thus, it would be make no sense for the Commission at this stage to require broadcasters to provide a minimum amount of high definition audio.

Indeed, instead of ordering broadcasters to provide a minimum amount of high definition audio, the Commission should allow them the flexibility to experiment with new and innovative ways to serve the public, including digital multicasting, datacasting and various subscription services. Again, the Commission should resist the urge to adopt detailed service rules, such as a limit on the number of digital multicast streams a broadcaster may offer, or otherwise amend its existing rules to consider the effect of DAB service. There is simply no reason at this point, for example, to alter broadcast ownership and attribution rules to account for the possibility that, in a digital environment, radio stations might seek to lease unused capacity to an unaffiliated content provider. Indeed, since the DAB signal will remain associated with the licensee's current frequency and spectrum allocation, and the use of any additional digital audio channels will

---

<sup>3</sup> See *id.*, ¶ 18.

require the licensee's cooperation, the licensee will remain accountable for all of the programming and content that travels on the digital signal regardless of its origin.

The need to maintain a hands-off regulatory approach to DAB services also extends to the provision of digital subscription services by radio stations. Any attempt by the Commission to impose a spectrum fee in connection with the offering of such services would dramatically reduce the incentives that broadcasters have to offer them and stifle the very innovation that DAB promises to the public. Unlike DTV, where additional spectrum was assigned during a transition period, the radio DAB model contemplates the use of the same spectrum in a more efficient manner. Radio broadcasters should be provided an incentive to further improve that efficiency. Moreover, the Commission's authority to impose a spectrum fee is suspect in the absence of congressional authorization, which the Communications Act provides in the case of DTV ancillary and supplementary services but not in the case of DAB subscription services.

#### **IV. DAB Programming and Operational Rules Should Be Flexible and Minimal**

Consistent with a market-driven approach to the service's rollout, the Commission's programming and operational rules for DAB should be flexible and minimal. For instance, there is no apparent reason to impose a minimum local origination requirement on DAB transmissions. In the first place, there would be difficulty in defining precisely what constitutes "local origination" in such a context. Would programming addressing the needs and concerns of a station's community but produced, for example, at a central facility or in a nearby larger market, meet the "local origination" definition? Would a minimum local origination requirement impede stations from airing nationally syndicated programming?

More importantly, however, licensees are already required to air programming to meet the needs and interests of the communities they serve. They will continue to have that obligation in a digital world. Not only is this obligation an FCC requirement, it is a competitive imperative.

Broadcasters that do not serve the local needs and concerns of their audiences simply will not be successful in the radio market. In short, the ability to employ digital technology should neither increase nor diminish radio broadcasters' obligations to air programming meeting community needs. There is no reason, particularly at this nascent stage, to impose any more specific or burdensome "local origination" requirements on digital radio stations.

Likewise, there is no reason at this stage to modify the political broadcasting rules or apply them to anything other than the station's main audio channel. Doubtless, stations' ability to provide multiple audio services with IBOC technology will provide an opportunity for stations that so choose to offer additional services that "enhance political discourse and candidate access to radio."<sup>4</sup> It is too early, however, to predict the uses that broadcasters will make of multiple digital channels and, in particular, the extent to which such uses will impact political candidates and their uses of radio. Thus, while the political advertising rules should remain applicable to a station's main audio channel, there is no need at this point to extend the rules' applicability any further or modify the rules in any way.

In Clear Channel's view, station identification requirements are unnecessary for DAB signals. The IBOC technology includes a Station Identification Service ("SIS") feature that automatically transmits to receivers a textual message identifying the originating signal by call sign. Thus, there is no need for a separate aural identification announcement. Moreover, the core purpose of the station identification requirement is to permit the identification of interferers when instances of harmful interference arise. In a digital environment, harmful interference will result in a complete loss of the affected station's digital signal, making it impossible for a digital receiver in the interference area to decode and identify the audio of the interfering signal.

---

<sup>4</sup> See *id.*, ¶ 36.

Because station identification is already built into the IBOC technology where a digital signal is present, and is moot where interference occurs, aural station identification requirements are unnecessary for DAB signals. In light of the SIS, the rules also should remain flexible enough to permit a broadcaster to “brand” its digital signal(s) as it sees fit.

Clear Channel agrees, however, that the Commission’s EAS rules should be applied to all of a station’s audio streams. As the *FNPRM* notes, the purpose of the EAS rules is “to fully inform the public of major emergencies,” and “this mandate can only be fulfilled if it is broadly applied.”<sup>5</sup> The cost of adding and converting EAS decoders to accommodate IBOC technology could be relatively high; Clear Channel estimates the cost as approximately \$2000 per audio stream. It may be possible, however, for the EAS alert tone to be embedded into the IBOC bitstream itself, thus allowing local and national EAS alerts to be activated automatically over DAB stations and obviating the need for encoders. Clear Channel encourages exploration of that possibility. In any case, Clear Channel believes the EAS system is too critical to require anything less than its full application to all DAB signals.

## **V. Technical Issues**

### **A. AM Rules**

Clear Channel generally supports the NAB’s recommendation that AM stations be permitted to implement nighttime IBOC service.<sup>6</sup> It believes, however, that the notification procedure for interim nighttime IBOC operation should be codified and changed significantly from the procedure now in existence for daytime AM operation. Under the existing procedure, AM stations may generally commence IBOC operation upon notification to the Commission.

---

<sup>5</sup> *Id.*, ¶ 37.

<sup>6</sup> See Letter to Marlene H. Dortch, Secretary, FCC, from Jack N. Goodman, Senior Vice President & General Counsel, NAB (March 5, 2004).

Licenses may adjust digital power downward if they anticipate interference problems, and only in cases where actual interference occurs will the Commission order a power decrease or termination of IBOC operation.<sup>7</sup>

This procedure, in Clear Channel's view, essentially places an advance determination as to whether IBOC operation will cause harmful interference solely in the hands of the licensee seeking to implement AM IBOC service. The only remedy for stations that might suffer harmful interference from the implementation is a complaint after service has already commenced. Thus, Clear Channel urges the Commission, with respect to interim nighttime AM IBOC service, to institute a formal notification and comment process by which the licensee seeking to implement nighttime IBOC must notify all potentially affected stations in writing sufficiently (perhaps 60 days) in advance of the planned implementation. Affected stations would then be given a period of time (perhaps 30 days) to object in writing to the proposed IBOC implementation, or else be deemed to have consented. This will allow licensees and the Commission to resolve potential interference issues before they manifest themselves, and will reduce the burden on the Commission in resolving interference disputes. In the event an affected station objects to the proposed IBOC implementation, and a resolution cannot be reached before the planned implementation date, the Commission should direct the implementing station to reduce digital power by 6 dB pending resolution of the objection. This process should be codified in the Commission's rules.

Additionally, the Commission should carefully study, define, and codify precise definitions of prohibited interference, and interfering and protected contours, in the digital AM context. It is not clear that the current protected contour definitions for AM are an optimum fit

---

<sup>7</sup> See *First Report and Order, Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service*, 17 FCC Rcd 19990, 20000 (2002).

for IBOC propagation. Nor is it clear, for example, that the potential for skywave interference between AM stations will be as pronounced in a digital environment. The Commission should carefully consider and precisely define what constitutes prohibited interference with respect to AM IBOC stations.

**B. FM Rules**

With respect to changes in the FM technical rules, the *FNPRM* asks whether the Commission should establish a minimum or absolute power level for digital stations.<sup>8</sup> Clear Channel believes there is no need at this time for such a requirement. Until FM IBOC service becomes ubiquitous, digital operating power should continue to be defined as 20 dB below the level of the analog carrier.

Clear Channel also supports a flexible approach to FM antenna modifications. The current allowance for separate antennas—that the auxiliary antenna be within three seconds of latitude and longitude of the main antenna and between 70% and 100% of the main antenna’s height above average terrain (“HAAT”)<sup>9</sup>—has been shown through field testing to work from an interference perspective and should be codified as a permanent rule permitting separate antennas within this allowance. More flexible parameters, however, have not been tested but may equally prove to provide substantially similar digital coverage without causing harmful interference. Thus, the Commission should entertain proposals for separate antennas outside the 70% HAAT/3 second allowance and grant such proposals on a waiver basis upon an appropriate showing of non-interference and adequate digital coverage.

---

<sup>8</sup> *FNPRM*, ¶¶ 49-50.

<sup>9</sup> See *Public Notice*, “Use of Separate Antennas to Initiate Digital FM Transmissions Approved,” DA 04-712 (March 17, 2004).

**VI. The Commission's DTV Policy for Noncommercial Stations Should Be Applied to Digital Radio**

Clear Channel believes that the policy adopted in 2001 with respect to DTV service by noncommercial educational (“NCE”) television stations is equally appropriate for NCE radio stations. Specifically, NCE radio licensees should be required to devote their entire digital radio capacity to the provision of nonprofit, noncommercial broadcast services, but should be permitted to use excess digital capacity to generate revenue through fee-based ancillary and supplementary services that do not constitute aural broadcasting.<sup>10</sup> For the reasons explained in Section III above, there is no justification for imposing a spectrum fee on revenue generated from such services.

---

<sup>10</sup> See *FNPRM*, ¶¶ 62-63 (citing *Ancillary or Supplementary Use of Digital Television Capacity by Noncommercial Licensees*, 16 FCC Rcd 19042 (2001)).

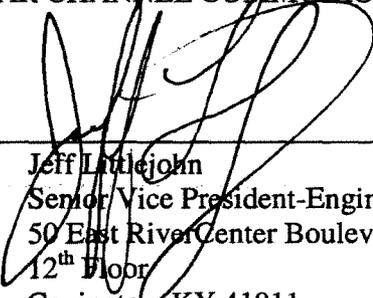
**Conclusion**

Clear Channel looks forward to the digital era of terrestrial radio broadcasting. It appreciates the opportunity to present the suggestions above regarding the transition to DAB and the service and operational rules for digital radio. In general, Clear Channel believes that a market-driven DAB transition, coupled with careful and specific interference rules, will best serve the interests of radio licensees and consumers.

Respectfully submitted,

CLEAR CHANNEL COMMUNICATIONS, INC.

By: \_\_\_\_\_



Jeff Littlejohn  
Senior Vice President-Engineering  
50 East RiverCenter Boulevard  
12<sup>th</sup> Floor  
Covington, KY 41011  
(859) 655-6535

June 16, 2004