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May 23, 2005

BY HAND DELIVERY

Honorable Kevin J. Martin, Chairman
Federal Communications Commission
Washington, DC 20554

Dear Chairman Martin:

Digital technology is extremely popular in every telecommunications field today. Radio broadcasting is no exception, and the Commission has given the green light for FM broadcast stations to install IBOC digital equipment at will, with notice to the Commission after the fact. A new recommended digital radio technical standard was submitted to the Commission by the National Radio Systems Committee last Thursday, May 18, 2005.

There is a serious interference problem that the proponents of the IBOC digital system are ignoring. It will happen when super powered stations (grandfathered stations that are permitted to use more power and/or height than the normal limit for their class) transmit digital signals in the adjacent channel. The major broadcast organizations do not appear to be doing anything to solve this problem, because they operate super powered stations.

I am enclosing a letter from Gregory P. Jablonski, owner and operator of WHMI-FM, Howell, Michigan, detailing the problem and explaining that a super powered station will place a predicted interfering signal that will not only take a big bite out of WHMI-FM's service area but will reach all the way to WHMI-FM's own transmitter site. Mr. Jablonski's station is not only family owned but is the only station licensed to the county and is the only source of truly local programming for the county.

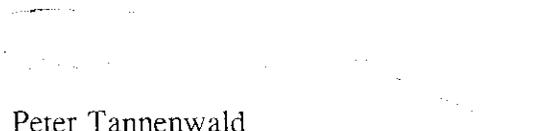
Mr. Jablonski has spent a great deal of his own time and money trying convince the Media Bureau that the super power problem must be addressed; and it must be addressed now, because there are at least 189 victim stations, 14 of which will have interfering contour overlap over their entire protected service area and have their local service threatened.

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iBiquity Corporation recently made an *ex parte* presentation to your office and to other Commissioners indicating that all is well, and only four regulatory problems remain. As Mr. Jablonski states, iBiquity is fully aware of the super power problem but is "burying their head in the sand." He asks you and the other Commissioners to fulfill your primary obligation to the public, which is to police the radio spectrum to avoid destructive interference. The job is not being done here, and it requires your attention.

Since digital radio broadcasting is at issue in MM Docket No. 99-325, a copy of this letter is being filed electronically in that proceeding through the ECFS system. The attached copy of Mr. Jablonski's October 21, 2004, *ex parte* filing is not being resubmitted in the docket, because it is readily available in ECFS under the original filing date. A copy of this letter is also being e-mailed to the following Media Bureau staff members: Roy J. Stewart, Esq., Peter H. Doyle, Esq., Ben Golant, Esq., Steven Broecker, Esq. Ms. Ann Gallagher, and Ms. Susan N. Crawford.

Very truly yours,


Peter Tannenwald

cc: (by hand delivery)
Honorable Kathleen Abernathy
Honorable Michael J. Copps
Honorable Jonathan S. Adelstein

(by first class mail)
John M. Burgett, Esq., Counsel for iBiquity Digital Corp.
Mr. H. Randolph Holder (KKBN)
Valerie Schulte, Esq. (NAB-NRSC)
Julie M. Kearney, Esq. (CEA-NRSC)



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May 23, 2005

Honorable Kevin J. Martin, Chairman
Federal Communications Commission
Washington, DC 20554

Re: iBiquity Digital FM Radio Broadcasting

Dear Mr. Chairman:

I notice that representatives of iBiquity Digital Corporation have been visiting the offices of the various Commissioners during the past few weeks, presenting a status report on the progress of implementation of their digital broadcasting technology. Their report has omitted a critical interference problem related to that technology. iBiquity has consistently ignored this problem, a problem that poses a serious threat of destructive interference that will wipe out substantial parts of the service areas of at least 189 FM stations nationwide, and likely, more than that.

The problem is that digital FM signals are intentionally transmitted on the first-adjacent channels to the analog signal. The digital signals are transmitted at a level 20 dB below the analog signal. This ratio minimizes the potential for interference that a station's analog and digital signals may cause to each other, but in practice it also protects other stations whose analog signals are transmitted on that first-adjacent channel. Unfortunately, when a station operates digitally with "super power" facilities, *i.e.*, it transmits with more power and/or height than the limit for its class on a grandfathered basis, the protection designed into the digital system is not afforded. Therefore, co-channel interference to other stations will occur in excess of the planned level. Co-channel interference is highly destructive, and no radio receiver can resist it. The PowerPoint presentation that iBiquity has been making lists four "outstanding regulatory issues," which are AM nighttime service, multicasting, datacasting, and extended hybrid and scalability. The presentation ignores the super power interference problem, even though iBiquity is fully aware of the problem as a result of direct contact by me and extensive presentations I have made in MM Docket No. 99-325 and to the Media Bureau Staff.

I am President and General Manager of The Livingston Radio Company, licensee of WHMI-FM, Howell, Michigan. My wife, Marcia, and I own the company, and WHMI-FM is our only station. It provides employment and a means of livelihood for not only my family but those of our other 20 full time employees. Our programming is intensely local and offers the only local programming in the county. The interfering contour of a super power station in a distant community, operating digitally on a first-adjacent channel to WHMI-FM, will reach all the way to and past our transmitter site!



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My company has spent a great deal of its own money, without outside contributions, to document the extent of the interference problem. A copy of my *ex parte* submission of October 21, 2004, is attached. It explains in detail how at least 189 stations will be victims of destructive interference from 73 super power stations. There will be 63 "victim" stations that will face interfering contour overlap over more than 50% of their protected service area; and of those, 14 stations will have overlap of 100% of their service area. If grandfathered super power FM stations are allowed to replicate their analog distant fringe coverage in the digital domain, it will be at the expense of the core local coverage of the victim stations.

iBiquity seems to have generated a true "steamroller" for their digital system; but they are deliberately burying their head in the sand when it comes to the super power problem. The only realistic answer is to require super power stations, which are all Class B FM stations, to cut back to the same power and height limits that govern all the other stations in their class. iBiquity and the NAB are not willing to advocate that solution, because too many of their large "clients" operate super power stations. However, as the agency responsible for pursuing the public interest, the Commission cannot ignore the problem, because the problem is too pervasive, there are too many victim stations to ignore, and too many listeners will lose local programming service.

I have traveled to Washington at my own expense to meet with several representatives of the Media Bureau; but I cannot afford, and should not be expected, to match iBiquity's lobbying resources. I am also not the only one that has complained. For example, Clarke Broadcasting Corporation, licensee of KKBN, Twain Harte, California, wrote to the Commission on December 22, 2004, noting that the interfering contour of a super power first-adjacent digital station would generate a co-channel interfering contour that would cover 100% of KKBN's protected service area.

Victim stations like WHMI-FM and KKBN are depending on the Commission to protect our public service broadcast efforts and our livelihoods. WHMI-FM is the only broadcast station licensed to, or located in, Livingston County, Michigan. Clarke told the Commission that KKBN is the only station licensed to a community in Calaveras County, California, which programs primarily to the local audience instead of a larger nearby city.

I had hoped that the Media Bureau would issue a public notice inviting further comment or even a Further Notice of Proposed Rule Making. However, although some seven months have passed since my visit to Washington, nothing has happened.

Please do not get digital "stars in your eyes" over the promise of digital FM radio to the point where you fail to see this major problem and fix it. Digital technology shows promise to improve radio broadcasting as a whole. But if the entire premise of allowing these signals to spill over into adjacent channels is that power limits will keep interference at an acceptable level,



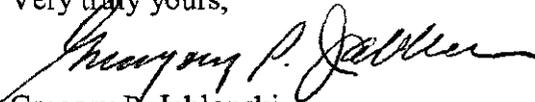
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please make sure that that everyone in the industry adheres to that premise. There is no justification for allowing stations that have been grandfathered at extra high power or height in the analog world to carry over that grandfathering into the new digital environment at the expense of other stations. The "expense" of other stations is not trivial when interfering contours extend over a station's own transmitter site and community of license, and in some cases over the station's entire service area. Everyone should leave the starting gate under the new digital rules with the same basic set of rights and privileges.

Both the public interest and basic fairness to all stations require your attention to this issue and require action before all of the super powered stations start digital broadcasting. They are allowed to transmit digital signals without any prior authority, by just giving notice to the Commission. iBiquity is licensing their system to as many companies as possible, as fast as they can. Only prompt action by the Commission can save the 189 victim stations. The number of victims is even higher, because my study encompassed only stations that are first-adjacent to super power stations and thus will receive co-channel interference. Many more stations are second-adjacent to super power stations and will receive first-adjacent channel interference, which is beyond the ability of virtually all consumer-grade FM receivers to resist.

I urge the Commission to act before the situation gets out of control and irreparable harm is done. If all digital FM stations were to operate at or below class limits, a major roadblock to the smooth implementation of digital radio would be removed, and the public interest would be served.

Very truly yours,



Gregory P. Jablonski

cc: Honorable Kathleen Abernathy
Honorable Michael J. Copps
Honorable Jonathan S. Adelstein
John M. Burgett, Esq., Counsel for iBiquity Digital Corporation
Mr. H. Randolph Holder (KKBN)

