

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

In the Matter of)
)
AM Radio Stations Use of) RM - 11338
FM Translators)

To: The Commission

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AUG 24 2006

Federal Communications Commission
Office of Secretary

COMMENTS
OF
MONSTERMEDIA, LLC

MONSTERMEDIA, LLC ("MonsterMedia"), by Counsel, pursuant to *Public Notice Report No. 2782 (released July 25, 2006)*, hereby submits these Comments in the above-captioned rule making proceeding regarding a proposal submitted by the National Association of Broadcasters ("NAB") to permit AM stations to use FM translators. In support hereof, MonsterMedia submits the following:

1. MonsterMedia is the licensee of Radio Station KJOK-AM at Yuma, Arizona. Although Radio Station KJOK-AM is not an AM daytimer station -- having authority to operate at 1.0 kilowatts daytime and nighttime -- MonsterMedia believes that this proceeding should be expanded to provide special relief to broadcasters, such as MonsterMedia, that experience a significant degradation of service at night.

2. Radio Station KJOK-AM suffers three material service problems at night:

a. During the winter months, the KJOK-AM signal gets overpowered and replaced by the signal of KSHP-AM (Las Vegas, Nevada) in the

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area of the Yuma Proving Ground./¹

- b. The local utility company has replaced many of the wooden poles in the Yuma area with metal poles, and since that occurred the KJOK-AM signal has been plagued in numerous areas around Yuma.
- c. During the winter months there is also an inexplicable loss of KJOK-AM service in the Foothills area of Yuma, approximately 16 miles east of Yuma. At least 20,000 people reside there year round, and more between 60,000 and 80,000 people reside there in the winter months.

MonsterMedia believes that in special unique circumstances such as KJOK-AM, the Commission should approve the use of FM translators by AM broadcasters to maintain full-time service to the daytime area audiences. Accordingly, hereinbelow MonsterMedia provides responsive comments to the proposal proffered by NAB.

3. Although the NAB proposal seems to place great emphasis on AM daytimer stations, MonsterMedia urges the Commission to acknowledge that AM daytimer stations are not the only AM stations that face a competitive disadvantage at night. As described hereinabove, stations such as KJOK-AM lose a significant portion of their target audience at night due to inexplicable reasons. This proceeding needs to acknowledge the service issues of all AM broadcasters. While MonsterMedia agrees that any use of FM translators by AM broadcasters must be narrowly awarded to only the most deserving AM broadcasters, determinations based upon power only is most prejudicial. The Commission must look at the unique circumstances of each applicant and base its decision accordingly.

¹ The U.S. Army Yuma Proving Ground is located near the Arizona-California border, adjacent to the Colorado River, approximately 24 miles north of the city of Yuma. Essentially the Yuma Proving Ground is a test area for Army weapons systems, and is one of the largest military installations in the world.

4. Fifteen years ago, within the context of reviewing technical proposals to improve the AM broadcast service, the Commission stated the following:

Over the years ... channel congestion and interference, both radio- and environmentally-induced, have dramatically increased in the AM band. Coincident with this growth has been a decline in the fidelity of AM receivers. As a consequence, during the last twenty years there has been a well-documented shift of AM listeners to newer mass media services that offer higher technical quality and better aural fidelity. This shift in listenership has clearly dulled the competitive edge of this once vital service.

Nonetheless, we believe that AM radio continues to hold a valuable place on the communications landscape. AM service provides a significant number of outlets that contribute to the vital diversity of viewpoints and programming available to Americans. Indeed, AM often offers the only radio service to listeners in a variety of circumstances, particularly those living in and traveling through rural areas. In view of the undisputed public importance of the AM service, we believe that innovative and substantial regulatory steps must be taken to ensure its health and survival.

For the past several years, the Commission has made an intensive effort to identify the service's most pressing problems and, where relevant and feasible, to adapt the regulatory environment for AM stations that will ameliorate those problems. *Review of the Technical Assignment Criteria for the AM Broadcast Service, 6 FCC Rcd. 6273 at paras. 2-4 (1991) (footnotes omitted).*

Despite the Commission's encouraging words almost half a generation ago, it is accurate to say that the more things have changed, the more they have stayed the same. Much effort has been expended to identify the problems of the AM broadcast service, but little has been done to fix those problems. In reality, the AM broadcast service has been abandoned, and now there is an opportunity to provide some reasonable relief.

5. MonsterMedia submits that any use of FM translators by AM

broadcasters should be narrowly awarded to only the most deserving AM broadcasters -- looking at a combination of such factors as the amount of service loss at night, whether or not the station serves a niche audience, the size of the station's market and the amount of competition in that market, and whether or not the station is locally owned. There are several administrative reasons why this is necessary. First, as with any communications service today, there is fierce competition among competing interests for use of frequencies. In this regard, the Commission is faced with some difficult decisions in this proceeding. For example, will the applications by an AM broadcaster for an FM translator station be subject to competing applications by FM broadcasters? If so, will the AM broadcaster be provided a preference? And, since any future proposed use of an FM translator station on a commercial frequency will be subject to an auction, will there be a need for special auction rules for these matters? However, should the FCC ultimately permit the rebroadcasting of AM stations on existing appropriately located FM translators, the commencement of this new rebroadcast service could be expedited. MonsterMedia submits that it is in the public interest to provide this much-needed relief to AM broadcasters as soon as possible, so use of existing appropriately located FM translator stations should be permissible without question.

6. If the Commission decides to implement the NAB proposal, MonsterMedia believes that it must be as narrow and selective as possible in order to avoid applicant abuse and to maintain a level of credibility for this new service. The use of FM translators by AM broadcasters should generally be to provide nighttime service to the community of license only. Therefore, MonsterMedia believes that the usable area in which to locate these FM translator stations should

be generally limited to an area within the AM station's daytime city-grade service contour at any optimum location.² However, in special circumstances, the Commission should be able to waive the daytime city-grade contour limitation for site location if the public interest warrants it, or if necessary to permit the use of a uniquely suitable transmitter site.

7. MonsterMedia acknowledges, as does NAB in footnote number 10 of its petition, that the Commission has been asked in the past for policy and rule changes similar to that which has been requested by NAB in this proceeding. Regardless of the Commission's actions in the past, the FCC must be flexible enough to react to changing times. For almost two decades now, AM broadcasters have been promised relief to provide better service. But, there have been no material changes. MonsterMedia submits that, if satellite radio providers such as XM Satellite Radio were permitted to apply for and license terrestrial repeaters to supplement their satellite service/³, AM broadcasters should be able to supplement their traditional radio service, too.

8. Although many people in the industry argue that the perils of AM broadcasting will solve itself as more and more AM radio stations go dark, this "survival of the fittest" theory has not panned out. For every AM station that goes dark, a daytimer adds nighttime power or increases power, or a new rimshot allocation is shoe-horned in someplace. The number of AM radio stations in the United States has remained almost constant during the past two decades. Even in the face of high HD Radio conversion costs and the inability of many smaller

² MonsterMedia believes that AM broadcasters should not be required to locate their FM translators on their AM towers.

³ See. e.g., *Order, DA 01-2383 (released October 15, 2001)*.

AM radio stations to afford implementing HD Radio, the number of AM radio stations is not likely to drop fast enough to permit significant interference mitigation or a rebirth of the AM radio service with full-time HD Radio.

9. As the Commission is well aware, most AM stations are not bothered by interference from other stations during the day, but maintaining their coverage at night is heavily undermined by the onslaught of skywave. Even AM radio stations that have decent daytime market coverage find that their nighttime coverage shrinks significantly. As a result, its ability to compete with FM radio stations is severely compromised.

10. Although HD Radio deployment is progressing nicely for the FM radio service, few AM broadcasters have stepped up and made commitments to HD Radio. So long as there remains the risk that nighttime AM radio service can cause interference, thereby forcing a reduction of operating power at night, HD Radio will not be the answer for AM daytimers.

11. The Commission should be reminded that, in other limited circumstances, AM radio stations have been authorized to utilize FM translators in the past. For example, the Commission has approved the use of FM translators for certain radio and TV stations in Alaska. See, *Wrangell Radio Group*, 75 FCC 2d 404 (1980). Also, in 1990, the Commission approved the use of an FM translator during nighttime hours for Radio Station WAMB-AM at Donelson, Tennessee in response to severe interference arising from the operation of a Cuban AM radio station. WAMB-AM proved that there were no other viable solutions, and the Commission granted special authority based, in part, on Section 303(g) of the Communication Act, which "mandates the Commission to provide for experimental uses of frequencies, and generally encourage the larger

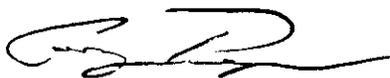
and more effective use of the radio in the public interest." /⁴

12. MonsterMedia agrees with the NAB that the proposal now before the Commission is simple, technically feasible, pro-competitive and in the public interest. The use of FM translators by AM broadcast stations is clearly a logical extension of the Commission's long-standing efforts to support and improve the AM broadcast service.

WHEREFORE, the foregoing premises considered, MonsterMedia urges the Commission to adopt the NAB proposal.

Respectfully submitted,

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August 24, 2006

⁴ See, *Letter by Donna Searcy*, September 17, 1990, to Ann Bavender, Esquire. Therein, the Commission cited three other Florida AM radio stations which had authority to operate FM translators in conjunction with its AM service.

CERTIFICATE OF SERVICE

I, Cary S. Tepper, Esquire, hereby certify that on this 24th day of August, 2006, I have served a copy of the foregoing "**Comments of MonsterMedia, LLC**" first-class, postage-prepaid, on the following:

Lawrence A. Walke
National Association of Broadcasters
1771 N Street, NW
Washington, D.C. 20036

A handwritten signature in black ink, appearing to read 'Cary S. Tepper', written over a horizontal line.

Cary S. Tepper, Esq.