

Before the  
Federal Communications Commission  
Washington, DC 20554

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Federal Communications Commission  
Office of Secretary

In re Application of )  
)  
Petition for Rulemaking of the ) RM-11338  
National Association of Broadcasters to Permit )  
AM Radio Stations' Use of FM Translators )

To: **Office of the Secretary**

Directed to: **The Commission**

**COMMENTS OF TRADE MEDIA CORPORATION**

Trade Media Corporation, by its attorney, here submits Comments in support of the above-referenced rulemaking "Petition for Rulemaking of the National Association of Broadcasters" ("Petition") filed on July 14, 2006<sup>1</sup>. Trade Media is an applicant for a number of new AM broadcast stations. In support of the Petition, the following is stated:

Trade Media Corporation supports the NAB Petition and the points made therein. Trade Media Corporation is of the belief that implementation of the proposal will have a clear beneficial effect on AM broadcasters who are required to reduce service at night. Many AM broadcasters especially serve a local "niche" that many FM stations have largely abandoned, broadcasting things such as local evening local high school sporting events, evening town meeting, and local emergency information. The ability to disseminate that programming and information in a meaningful fashion has been affected by the need to reduce power in the evening hours. The NAB's proposal, if implemented by local stations in the proper fashion, will allow

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<sup>1</sup> The "Petition for Rulemaking of the National Association of Broadcasters" was placed on *Public Notice* on July 25, 2006. *Public Notice*, Report No. 2782 (July 25, 2006). Interested parties were afforded 30 days within which to respond. Therefore, these Comments are timely submitted.

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for local needs and services to be provided in a more complete fashion.

Presuming, as is evident, that AM service on FM channels is in the public interest and is adopted by the FCC, the next regulatory hurdle that must be examined is the most fair, and expeditious way to implement the service, so that the public can be quickly and appropriately served. The overall goal should be to award use of FM translators in the future for use by the most deserving of broadcasters. Where there is no mutually-exclusivity between applicants, no issue, of course, would exist. However, in the case of the filing of mutually-exclusive applications during a relevant window, a decisive preference, akin to a preference awarded under Section 307(b) of the Communications Act (47 U.S.C. § 307(b)) should be awarded to the most deserving AM broadcasters, namely those with nighttime service issues. In the case of AM broadcasters, when mutually-exclusive, such a decisive preference should be awarded to daytime-only AM stations, as well as AM full time stations whose interference-free contour population is 10 percent or less of the station's daytime 2 mV/m contour, will have precedent over all other translator applications. Also, all other AM stations would take second precedence to the above AM stations but before all other applicants. To the extent a large number of FM translator applications remain pending from the last filing window, it is proposed that this action be retroactive to all pending translator applications.

This rule change should not result in permitting wholesale program origination on FM translators. Trade Media Corporation is also opposed to local origination on FM translators as proposed by Miller Communications.

Finally, any FCC *NPRM* should make clear an issue only touched on by the NAB's Petition, namely the question of ownership. The NAB Petition requests that "AM stations be

permitted to license and/or use FM translators to retransmit their AM service....” Petition at 1. It should be made clear that the proposal would therefore allow (1) AM station licensees or their affiliates to be proposed and be granted the right to use an FM translator within the restricted 2.0 mV/m contour/25 mile limit as proposed; and also allow (2) AM station licensees to enter into in essence a “local marketing agreement” to purchase time on *another* licensee’s FM translator whose contours are within the prescribed area to rebroadcast their AM station. Both scenarios should be specifically and clearly permitted. The other open question that should be explored in any *NPRM* should be the legality of out-of-market rebroadcasts of AM stations on FM translators by non-affiliated FM translator licensees, *i.e.*, community groups. Currently, FM translators are allowed to rebroadcast FM stations, and not serve as merely a “fill-in” translator, as long as it does not receive any support, before or after construction, either directly or indirectly, from the commercial primary FM radio broadcast station, other than technical assistance from the primary station to the extent of installing or repairing equipment or making adjustments to equipment to assure compliance with the terms of the translator station's construction permit and license. 47 C.F.R. § 74.1232(e). Comments also should be solicited to allow rebroadcast of AM stations beyond the limited proposed by the NAB, and long as similar restrictions continue to be imposed.

For the first fifty years since its debut in the 1920's, AM radio's contribution to daily life in America was unquestioned. As the first national medium of mass communications, at one time AM radio was a unifying force in the nation. During the last twenty years, channel congestion, interference and low fidelity receivers have taken their toll, dulling the competitive edge of this once vital service. Consequently, in the early 1970's, FM radio began its rise to dominance. Not surprisingly, once loyal AM listeners have shifted their allegiance to newer

mass media services that offer them higher technical quality. That was the state of affairs when the FCC began its review of the technical assignment criteria for the AM broadcast service in 1990, and remains the case today. *Review of the Technical Assignment Criteria for the AM Broadcast Service*, 5 FCC Rcd 4381 (1990). In the *Assignment Criteria* proceeding, the FCC believed that the once preeminent AM service was now in critical need of attention, and adopted a series of modifications of its rules, designed to “fix” AM radio.

Specifically, in 1991, the FCC increased the first and second adjacent channel protection ratios to reduce adjacent channel interference and to promote the development of receivers with higher audio fidelity; refined the methodology of calculating nighttime coverage and interference to more accurately measure interference effects (to improve nighttime reception); and in some cases, required a 10% interference reduction when modifications were made to AM station facilities, in order to gradually reduce the overall presence of interference. *Review of the Technical Criteria for the AM Broadcast Service*, MM Docket No. 87-267, 6 FCC Rcd. 6273 (1991). In initiating that proceeding, the Commission stated:

For the past several years the Commission has involved itself in an intensive effort to identify the service's most pressing problems and the sources of and solutions to those problems. In September of last year we challenged broadcasters, radio manufacturers and the listening public to tell us how we could revitalize the AM radio service. In an en banc hearing lasting a full day in November they responded to the challenge. **Their response reaffirms our conviction that a concerted effort by this Commission, the broadcasting community and radio manufacturers can rejuvenate the AM radio service.**

*Id.* at ¶ 2. Although some degree of improvement no doubt occurred, by no measure did any “rejuvenation” of the AM service ever occur.

As another component of attempting a vast improvement of the AM band, the FCC began

implementation of the AM expanded band (1605-1705 kHz). In *Review of the Technical Assignment Criteria for the AM Broadcast Service*, 6 FCC Rcd 6273 (1991), recon. granted in part and denied in part, 8 FCC Rcd 3250 (1993), the Commission adopted measures to improve and revitalize the AM broadcast band, and to establish standards to permit certain AM licensees and permittees to migrate to frequencies between 1605 and 1705 kHz, the "Expanded Band." In 1997 the AM expanded band proceeding was terminated, and in 2000 the allocation plan became final. Stations were required to apply for and subsequently begin implementation of the migration of their stations to the expanded band, and reportedly 65 three-year permits for expanded band stations were issued in 1997 and 1998. *Public Notice*, 17 FCC Rcd 1806 (2002). Although the deadline for termination of the original, standard-band channels, has now presumably expired, there has been no tremendous improvement of station technical performance or public revitalization of the AM band.

Moreover, the regulatory imbalance between AM and FM stations is growing rather than narrowing. Even with the introduction of HD Radio, the imbalance between AM and FM stations will grow, insofar as AM stations will be at an even greater disadvantage since they will only have one digital channel and FM stations will have multiple channels.

The bottom line is, without implementation of a bold initiative on the part of the Commission such as that proposed by the National Association of Broadcasters, the AM service will continue its current decline. AM broadcasters need access to quasi-full-time service through service on FM translators in order to have any sort of parity with FM stations.

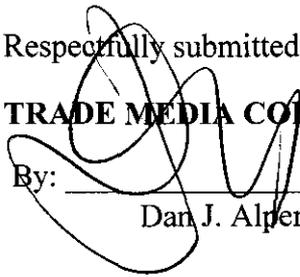
## Conclusion

Even 16 years ago, the Commission determined that “the once preeminent AM service is now in critical need of attention.” *Review of the Technical Assignment Criteria for the AM Broadcast Service*, FCC 90-136, ¶ 2 (1990). Although the rule changes adopted in the 1990's may have slowed the degradation of the service, the sensible, feasible, adjustments to the FCC's rules proposed by the National Association of Broadcasters can allow for great strides to be taken by existing AM stations to improve competitiveness in the local radio marketplace and a greater variety of program sources to the public. Adoption of this proposal would be consistent with the Commission's decisions to allow satellite radio, and especially low-power FM stations, in that adoption of the proposal would allow otherwise unused or unusable spectrum to be used in a manner than will provide additional program sources (here, at night) and service to the public, all while having the additional beneficial effect of fostering an AM service that has been harmed and is in danger of partial extinction absent Commission action. Sixteen years ago, the Commission was of the opinion that “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.” *Review of the Technical Assignment Criteria for the AM Broadcast Service*, 6 FCC Rcd 6273, ¶ 3 (1991). That sentiment is even more true today. Today, AM stations face competition new competition from additional sources, such as satellite radio, Internet radio broadcasts, and even Ipods. FCC approval of the NAB's proposals would enable AM stations to more aggressively compete in today's media marketplace.

**WHEREFORE**, it is respectfully requested that these Comments be accepted.

Respectfully submitted,

**TRADE MEDIA CORPORATION**

By: 

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