Before the

Federal Communications Commission

Washington, DC 30554

FCC Docket No. 06-164

Comments of the Michigan Association of Broadcasters

The Michigan Association of Broadcasters appreciates the opportunity to comment on the Federal Communications Commission's Notice of Proposed Rulemaking 06-164.

The Commission has requested comments on a number of issues, including proposed mitigation strategies recommended by researchers who have studied avian mortality caused by collisions with communications towers.

After reviewing the NPRM and conferring with radio and television engineers from MAB member stations and other engineers from across the country, we offer the following comments:

Avian Mortality Estimates

We question the migratory bird mortality numbers attributed to communications towers which are quoted in the NPRM. Estimates range from 4 million to 50 million migratory bird deaths per year. There is more than an order of magnitude between the two estimates, a difference that prompts reasonable questions about how the estimates were formulated.

While we do not doubt that some migratory bird deaths occur as a result of collisions with broadcast towers and guy wires, we do not see evidence of such extraordinary numbers at our own members' towers and ancillary facilities.

Estimates at either end of that wide range would suggest that several dead birds are found at tower sites on a daily basis. Most engineers who operate or visit these tower sites as part of their daily duties simply do not see evidence of such numbers of injuries or deaths.

Some engineers report an occasional bird death, although they cannot always determine a cause. At least one engineer, for example, notes that a hawk frequently uses a broadcast tower as a "hunting perch" and that he suspects some dead birds found near the tower might be attributed to the predator.

An engineer in Florida reported: "In nearly 40 years in this business, with many towers over 1,000 feet and two at 1,750 feet, I have NEVER seen a dead bird at any of my tower sites. The only dead animal I have ever seen at the bottom of a tower was a fish. The birds would catch fish at a nearby lake, then land on the tower to eat them and drop the fish when finished."

From our own collection of anecdotal information, we are aware of isolated reports of unusual numbers of dead birds at a few tower sites, but nothing that would imply that every site poses a hazard. Isolated and seemingly random instances of higher bird mortality numbers suggest that tower sites should be evaluated on an individual basis instead of requiring extensive changes to all towers. If a particular tower poses a hazard because of a combination of location, height, migratory routes and species characteristics, then regulators and facility owners should investigate steps to mitigate the problem at individual sites.

Michigan as Avian Habitat and Migratory Route

Although we do not have the means to evaluate reports on avian populations or migratory route patterns from other parts of the country, we do note that Michigan is a geographically diverse state that serves as the home of many migratory species. In addition, Michigan is "along the route" for many additional species that nest in regions that lie to the north and south of our state. Millions of birds traverse Michigan's two peninsulas annually and take advantage of the rivers, lakes, grain fields and woods that provide food and friendly habitat along the way.

The constant presence of great numbers of migratory birds and a relatively small number of deaths at broadcast tower facilities in Michigan give us reason to question the referenced mortality numbers and ask for more certain empirical data before any numbers are used to justify proposed regulations.

For example, research conducted in Michigan with strict protocols and sound methodology, indicated that although collisions occurred more frequently with guyed towers and certain lighting schemes, the total number of bird deaths was still relatively small – 208 for six towers over a two-year period in one phase of the research.

Comparative Threats to Migratory Bird Species and Populations

U.S. Fish and Wildlife Service estimates are quoted frequently as a reason for concern about avian mortality and communication towers. Although the USFWS is careful in its reports to qualify its estimates, other agencies and organizations are not as careful and often quote high numbers without adequate explanation.

USFWS documents also note that other hazards pose an even greater threat to migratory birds. According to a 2002 publication (*Migratory Bird Mortality: Many Human-Caused Threats Afflict our Bird Population, 2002*), building window strikes kill between 97 million and 976 million birds per year. Power lines are thought to be responsible for 174 million deaths per year.

USFWS reports that in Wisconsin, the only state for which separate figures are provided, that "domestic rural cats kill roughly 39 million birds annually." The publication also notes that the estimate of 39 million does not include the additional millions of bird deaths caused by feral cats, or deaths caused by domestic cats in urban and suburban areas of the state. It could be presumed that inclusion of bird deaths attributed to urban and suburban cats would add significantly to the estimate.

Although no mortality estimates are provided for other states with migratory bird populations, we assume that feral and domestic cats could be responsible for a significant number of bird deaths in other states, if the USFWS figures for Wisconsin are correct.

All of these avian mortality numbers are framed within a USFWS estimate of a North American bird population of between 10 billion and 20 billion, depending upon the season.

Noting these comparative threats and population estimates is not meant to diminish the importance of the issue at hand, but instead to provide necessary perspective about the scope of the potential problem posed by communication towers. If we give all of these numbers equal credence, it becomes increasingly difficult to justify the imposition of expensive changes to existing communication towers.

Red Lights vs. White Strobe Lights

The NPRM asks for comments on tower lighting systems and their potential effect on migratory birds. At this time we question whether there are sufficient data to suggest that white strobe lights are preferable to flashing red lights for hazard warnings on broadcast towers.

Some research suggests that birds might be "confused" by the red lights, but we believe there should be more certainty about how birds perceive or react to any kind of lights before considering arbitrary changes.

For example, where there are differences in the way birds react to certain types of lighting, can we be sure that the differences are uniform for all species? It would be unfortunate to assume that all birds respond in the same way to red lights and then learn, after expensive changes, that our assumptions were incorrect.

Broadcasters also know from experience that humans who live near broadcast towers typically express a preference for red lights. Many broadcasters have made the switch to strobe lights on their towers and then learned that nearby residents do not like the bright white strobe lights. In fact, nationwide there are several hundred local ordinances prohibiting the use of white strobe lights.

As much as broadcasters want to support reasonable protective measures for migratory birds, they also want to continue to get along peacefully with their human neighbors.

Summary

The Michigan Association of Broadcasters urges the Federal Communications Commission to take a cautious approach and avoid sweeping changes that could result in significant costs to tower owners and operators. Given the wide range of mortality estimates, the surprising numbers of bird deaths that can be attributed to other causes, the still-developing evidence to support proposed changes in tower lighting schemes, and the overall degree of uncertainty that surrounds this issue, the MAB concludes that mitigating or corrective measures are unwarranted at this time.

Respectfully submitted,

Michigan Association of Broadcasters
819 N. Washington
Lansing, Michigan 48906

Karole L. White
President and CEO