

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

In the Matter of )  
 )  
AM Radio Stations' Use of FM Translators ) MB Docket No. 07-172  
 ) RM-11338  
 )  
To: The Commission

**COMMENTS OF THE AM DAYTIMERS ASSOCIATION**

The AM Daytimers Association (“AMDA”)<sup>1</sup>, hereby submits its Comments in response to the Commission’s Notice of Proposed Rule of the Petition for Rule Making, FCC 07-144, released August 15, 15, 2007 (“NPRM”) advocating the use of FM translators by AM stations with limited or no authorized nighttime operations. In support thereof, AMDA states as follows:

1. AMDA was formed in response to the submission by the National Association of Broadcasters of the Petition for Rule Making that led to the release of the NPRM. AMDA was formed to promote the adoption of rules that would allow AM stations with limited or no nighttime power to utilize FM translators to improve nighttime coverage.<sup>2</sup> AMDA’s purpose is to provide one clear and unambiguous voice in support of the preservation and advancement of these underappreciated AM operators by allowing these stations to broadcast at night to as much of their daytime audience as possible. Allowing AM operators with limited or no nighttime authorization to utilize FM translators to offer nighttime service will serve the public

---

<sup>1</sup> See [www.AMDaytimers.org](http://www.AMDaytimers.org).

<sup>2</sup> The following AM stations have already joined AMDA: WCMA, Daleville, AL; KIQQ, Barstow, CA; KTNS, Oakhurst, CA; KRRS, Santa Rosa, CA; WADS, Ansonia, CT; WFIF, Milford, CT; KOUU, Pocatello, ID; WVNE, Leicester, MA; WGTO, Cassopolis, MI; KPWB, Piedmont, MO; KXEN, St. Louis, MO; WQMS, Quitman, MS; WSPC, Albemarle, NC; WZKY, Albemarle, NC; WRTK, Niles, OH; WPGA, Bethlehem, PA; WGDH, Lares, PR; WABV, Abbeville, SC; WKZK, N. Augusta, SC; WJTI, Racine, WI, WGLH, Lafollette, TN and WMOV, Ravenswood, WV.

interest by providing more local programming options for listeners and giving these operators a new tool with which to compete in their local marketplace.

2. The problem is critical. As the FCC noted in the NPRM, over 40% of all licensed AM stations operate with reduced (or no) nighttime power. In many cases, these stations are the only stations on the community they serve.<sup>3</sup> These communities must live without local news and weather at times when they need it most – early morning hours and at night. Imagine the frustration of the licensee in the panhandle whose station, the only one in the county, survived Hurricane Katrina and could have broadcast important news and critical information...if only his FCC license had let him. The station was a daytime-only. Important, time sensitive information was coming into the station, but it was illegal for the station to come on before sunrise or stay on after sunset. And there are countless cases where AM stations can't even cover local high school sports because the sun goes down too quickly in fall and winter. That's the bread and butter for many small market AM operators, and they are suffering even more mightily with the recent changes to Daylight Savings Time. The NPRM rules, when adopted, will provide relief to at least some of these licensees.

3. AMDA believes the rollout of these rules should be immediate and nationwide. The application process should be open to everyone and then the FCC can create a needs-based queue for processing based on a needs analysis. Stations providing the only local service in their county should come first, followed by those that are the only licensed primary service in their community. After that, all remaining AM daytimers, and then all other AM stations that operate at reduced power at night. All AM stations seeking permission to utilize FM facilities

---

<sup>3</sup> See, e.g., WCMA, Daleville, AL; WVNE, Leicester, MA; WGTO, Cassopolis, MI; WQMS, Quitman, MS; WGDL, Lares, PR; and WMOV, Ravenswood, WV. That's more than 25% of the stations who have signed on with AMDA, as a representative sample.

at night should be required to commit to a local program origination component for such nighttime operations.<sup>4</sup>

4. These new rules should not be used as a tool for major owners to circumvent the FCC's multiple ownership rules. AMDA believes there should be limitations based on FM station ownership in the same market. For example, if a license owns four FM stations, and is at its capacity for FM ownership in a particular market, that licensee should not be allowed to acquire an AM station and an FM translator to function as a fifth FM.

5. Rather than propose a limit on the number of fill-in translators an AM licensee can utilize, AMDA suggests that the FCC require that AM licensees broadcast the same programming over the AM station (if it has nighttime authority) and over all of the FM "fill in" translators. An AM licensee would not be inclined then to use FM translators that overlap since all of those translators would be required to broadcast the same program content.

6. AMDA believes the FCC should allow great flexibility in setting a framework for AM licensees to work with FM translator licensees. AM licensees should be allowed to enter into time brokerage agreements with both FM translators in the commercial (i.e., non-reserved band) as well as those in the reserved band. Use of reserved band FM translators should not be limited to only non-commercial AM operators, so long as the AM operators only lease broadcast time in the reserved band during those times when the AM station cannot broadcast or broadcasts at reduced power.

7. The linchpin to all of this is amending the rules to allow AM licensees to originate programming over FM translators. Establishment of a hard and fast rule providing that the 60 dBu contour of the fill-in translator must fit wholly within the 2 mV/m of the AM station is appropriate, however, there should be a procedure where an AM licensee can seek a

---

<sup>4</sup> AMDA is well aware the FCC cannot regulate program and format choices, however, we believe it can see clear to mandate that a certain amount of programming must be produced locally during enhanced nighttime operation.

waiver of those rules. An AM licensee would have to demonstrate that it was unable to locate an FM translator whose 60 dBu contour would fit completely within the AM's 2 mV/m, and would have to further demonstrate to the Commission that a waiver would benefit the public interest. Grant of such waivers would be based on whether the "fill-in" translator provides first local service and how much locally originated programming the AM licensee plans to broadcast over the fill in FM translator.

8. Promulgating rules to allow daytime and reduce nighttime power AM stations to originate programming over fill in FM translators is a critical step in assuring the continued viability of the AM broadcast service. Many FM stations have changed communities of license in rule making proceedings to migrate away from rural, less populated and into more urban areas. For years, FM stations have been allowed to move from their allotted communities leaving behind only an AM daytimer or reduced nighttime station to serve the community. And sometimes that AM station is just the only one in the community, but also the only radio station in the county. These are the stations that provide local high school sports, or the school lunch menu, or the local "swap and shop" program. These stations want to do more, but now, when the sun sets, so does their broadcast day. Adopting the rules proposed in the NPRM will help bring more local programming to the airwaves.

Respectfully submitted,  
AM DAYTIMERS ASSOCIATION

By: /s/ Scott C. Cinnamon  
Scott C. Cinnamon  
Its Counsel

Law Offices of Scott C. Cinnamon, PLLC  
1250 Connecticut Ave., NW, Suite 200-# 144  
Washington, DC 20036  
202-216-5798

January 7, 2008