

MULLANEY ENGINEERING, INC.

9049 SHADY GROVE COURT
GAITHERSBURG, MD 20877



**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of:)
) MB Docket No. **99-325**
Digital Audio Broadcasting Systems and)
Their Impact on the Terrestrial)
Radio Broadcast Service)

To the Commission:

COMMENTS

Mullaney Engineering, Inc. ("MEI"), hereby submits its comments in response to the Public Notice released by the Commission in MB Docket 99-325, which solicits comments concerning the Joint Parties Request for FM Digital Power Increase and Associated Technical Studies, DA-08-2340. The Commission is seeking comments on a proposal by the Joint Parties to allow stations to broadcast with an increased digital operating power of up to 10% of their analog power. Specifically, the Public Notice solicits comment on studies by iBiquity Digital Corporation and National Public Radio, Inc. ("NPR") that were filed in response to the Joint Parties proposal.

The justification for the +10 dB increase in digital power is justified under the premise that such an increase is needed in order for Digital Radio to achieve building penetration and this is needed in order for this new service to be competitive. However, when initially applying to create this new Digital Radio service, had the petitioners indicated that a digital facility operating at 1% of the analog power (authorized by

subsequently adopted rules) was insufficient as now being argued and that a 10% digital power would be needed, it is likely that petitioner **would not have successful** in creating its sole source digital system. At this higher digital power level the **adjacent interference caused is significantly larger** to the point of being unacceptable to analog FM stations (see NPR study). Now many years later, they come before the Commission under the premise that this sole source digital technology service offered by iBiquity is somehow **“to important to fail”**. This sounds just like the arguments being offered by many financial institutions & manufacturers in their weak justification of why Congress **must bail them out** of the mess that in some instances they were responsible for creating. iBiquity has nobody to blame for its problems but itself.

The inability to obtain reliable building penetrate and, thus, compete on a level playing field **is nothing new to the many AM and Class A FM broadcasters that operate today**. In 1989, when adopting the power increase from 3 to 6 kW for Class A FM stations, the Commission declined to make a blanket across the board authorization. The FCC felt that a +3 dB increase **had the potential to cause just too much interference if the new spacings were not met**. However, here the FCC is asked to provide a +10 dB increase to digital radio facilities without regard to increased interference to analog FM stations. While this interference is extremely harmful to full service FM facilities, it will be simply **devastating to the many Low Power FM** (LPFM) stations the Commission hopes to use to promote localism.

Section 73.209 of the FCC rules states that the only protection from interference afforded commercial FM stations is limited to that which results when assignments are made in accordance with this subpart or said another way when properly spaced or compliant with Section 73.215 of the FCC rules. However, the implementation of digital broadcasting puts a new wrinkle in how this section is interpreted. The adoption of digital radio did not modify how analog FM stations are allocated under the premise that the new digital technology does not create interference. That is a self serving and obviously flawed premise. Luckily for digital radio, the rules had already been revised to eliminate the rights attributed to the *Western Broadcast case and the concept of an involuntary modification of license*.

The digital revolution is definitely coming and **Broadcasters must be given the tools to adequately compete**. With this in mind, rather than continue to increase the authorized power of a very questionable technology, the FCC should re-open the entire process and decide if other digital modulations techniques such as **Digital Radio Mondiale** (DRM) might not be better suited to permitting the US Broadcaster compete in a global digital age. Take a tip from television, separate channel allotments accompanied by mandated digital receiver compatibility is probably the best way to go. The current digital radio rules offer little, if any, relief to AM broadcasters. These broadcasters already operate with a significant disadvantage when it comes to analog FM. Improving FM with a flawed digital modulation **which is not compatible for AM stations is patently unfair**.

In MB Docket 07-294, the FCC is investigating ways to Promote Diversification of Ownership in the Broadcast Services. Given that the majority of minority ownership is currently in AM broadcast stations digital radio which is incompatible with AM is contrary to published objectives of the FCC and is a **giant step backwards in promoting diversity**. In addition, as part of that docket, the FCC is reviewing a proposal to **re-allocate TV Channels 5 & 6 to the FM band** and for that newly added spectrum to be broadcast in a digital format. This proposal will permit the **migration of the existing AM band** to a significantly higher quality digital format and this new band will also create new opportunities for **Non-Commercial Educational FM (NCE) and the Low Power FM (LPFM)** services. It is also possible that this new band can be used to rectify some of the **many grandfathered short spacings** that currently exist within the traditional FM band. But more importantly, this proposal to operate in a truly digital environment avoids the consequences of causing interference to the existing analog FM service.

Conclusion: MEI hopes that the FCC will not blindly adopt a power increase for the few digital radio operators at the expense of additional & very significant interference to existing analog FM stations which have been serving the public interest for more than 40 years.

Respectfully submitted,

MULLANEY ENGINEERING, INC.

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