



August 20, 2010

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: MM Docket No. 99-25

Dear Ms. Dortch:

On August 19, 2010, Jane Mago and the undersigned of the National Association of Broadcasters (“NAB”) met with Peter Doyle, James Bradshaw, Kelly Donohue, and Robert Gates of the Commission’s Media Bureau to discuss issues related to FM translators.

First, NAB discussed the *ex parte* filing submitted in this proceeding by the Educational Media Foundation and Prometheus Radio Project (the “Parties”) on July 8, 2010. Under the Parties’ proposed Memorandum of Agreement (“MOA”), all of the pending FM translator applications filed during the 2003 FM translator window would remain on file, but not processed while the Commission opens an application window for low power FM (“LPFM”) stations. Applications filed in this LPFM window would receive a preference over the pending FM translator applications. Processing of the pending FM translator applications would resume only after the Commission identifies the pool of pending FM translator applications that is precluded by LPFM applications filed during the intervening window.

NAB expressed concerns that, should the Commission implement the proposal as currently drafted, it could be harmful to full-power FM and AM radio stations that wish to use FM translators to serve their audiences. As the Commission has recognized, full-power radio services have a long history as an integral “component of the mass media landscape and a vital provider of broadcast service to local communities across the nation.”¹ AM stations, for example, often

¹ Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations, Report and Order, MB Docket No. 07-172, 24 FCC Rcd 9642, 9643 (2009)

provide the only audio service to listeners in rural areas, and in almost all cases, house the large majority of unique news and talk formats found on radio.² No other audio service can match the comprehensive, community-responsive programming provided by full-power FM and AM radio stations.

NAB expressed concern that the proposed MOA would disadvantage organizations, including some full power broadcasters, with pending applications for only a few FM translators filed during the 2003 window. For example, any entity holding ten or fewer pending FM translator applications would be placed at significant risk of forfeiting all or a substantial percentage of their potential translator licenses to LPFM stations. Such an outcome could disserve the public interest by undermining the ability of full-power FM and AM stations to obtain FM translators as a means of enhancing service to their communities. In this vein, we noted that listeners nationwide have benefited from the improved service and additional local programming that AM radio stations have been able to deliver as a result of the Commission's 2009 decision to permit AM stations to use FM translators as a fill-in service. See *supra* note 1.

We also pointed out that the MOA would significantly delay the processing of pending FM translator applications. Given the resources needed to open and process a LPFM window, identify which pending FM translator applications to bump in favor of LPFM services, and complete a settlement process for the remaining FM translator applications, it is likely that some may have to wait up to six more years before their FM translator applications are finally resolved. NAB submits that such a time frame is unacceptable, especially given that many applications have already been pending for seven years to date.

Second, NAB relayed the recent challenges faced by some NAB members with pending applications for minor modifications to FM translators, or who plan to file such applications in the near future. Broadcasters are grateful for the tremendous effort put forth by Commission staff to process thousands of FM translator applications filed during the 2003 window, and appreciate the significant demands that compete for staff's attention. Nevertheless, we remain interested in working with the Commission to find expeditious ways to address situations where translators may need to be moved to be most useful for full power stations.

NAB has received anecdotal information that demonstrates the need to confront this matter. For example, a Midwest AM radio station that operates at 250 watts during daytime hours must reduce power to only 3 watts during nighttime hours, in accordance with Commission's rules. This station is seeking a FM translator to provide its audience with a clearer, more reliable signal, especially during nighttime hours. A FM translator would enable the station to provide its audience with timely coverage of morning school announcements, morning and evening rush hour traffic information, nighttime weather conditions, and other events that typically occur at night, such as local political debates and high school sports.

² *Id.*

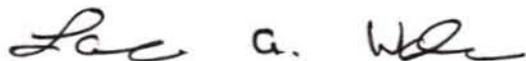
However, consistent with the Commission's rules, the closest available FM translator is located 55 miles away, thereby requiring the station to submit three applications for minor modifications to relocate the translator so it will cover the AM station's daytime contour.

NAB submits that it would serve the public interest to identify a way for the Commission to hasten the processing of such modification applications, perhaps by treating a situation that could be accomplished through a series of minor modification applications - albeit very slowly and as a burden on the FCC processing staff, as one request. Not only would this conserve the Commission's resources, but it would introduce enhanced service to listeners much more quickly. Such a program could be limited to certain circumstances, such as here, where the station intends to use the translator to improve local service, no interference would result, and no other audio service in the community of license would object (after sufficient notice) to the station's use of a FM translator.

NAB intends to consider this question further with our members and work closely with the Commission to devise a process that accommodates the interests of Commission staff, listeners, competing full-power FM stations, as well as other participants in the audio services market place.

Please direct any questions concerning this matter to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Larry A. Walke". The signature is written in a cursive, flowing style.

Larry Walke

cc: Peter Doyle, FCC
James Bradshaw, FCC
Kelly Donohue, FCC
Robert Gates, FCC