

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Revitalization of the AM Radio Service) MB Docket No. 13-249
)

COMMENTS OF COMMON FREQUENCY

On October 31, 2013 the Federal Communications Commission (“FCC”) released a Notice of Proposed Rule Making concerning the Revitalization of the AM Radio Service (“AM NPRM”). Common Frequency, Inc. (“CFI”) is a 501(c)(3) that advocates for educational, community, and non-commercial broadcasting in the public interest. Our primary interest in commenting upon this NPRM is assuring the FCC provides adequate protection of LPFM opportunity in the light of extending a translator window to AM licensees.

I. A Balanced/Reserved Approach Needs To Be Undertaken In Opening Another Translator Filing Window

The FCC’s last attempt at providing an opportunity for translator licensing was a quagmire that took over a decade to sort out. Auction No. 83 had inadequate protections for equitable distribution or ownership and use of the FM band. With the introduction of the Local Community Radio Act (“LCRA”)¹, there are new considerations to heed when opening opportunities for permitting new translators. The LCRA stipulates protections in attempt to balance FM airspace for the secondary services of LPFM and translator services.

(A) Limitations among applicants.

¹ H.R. 6533 (111th): Local Community Radio Act of 2010.

CFI whole-heartedly agrees with the FCC that edibility for translator procurement must be “limited to AM broadcast licensees or permittees, and may apply for only one FM translator per AM station.”² In fact, since such little room for FM translator licensing exist in major markets, we might even recommend that only one translator may be only licensed per *licensee* and not per *AM station* in the Top 50 Arbitron markets. Small local single-owner AM licensees should not have to compete with conglomerated AM station group that owns several AM stations in a market each wanting translators. In a perfect world every AM station could have an equivalent FM channel but that simply is not possible. In addition, diversity of ownership should be a factor. AM licensees that do not have translators yet could be given preference over those that already own translators.

(B) Protection to LPFM Opportunity Within 90-day Settlement Window.

No filing window for translators should be enacted until the LPFM 90-day Settlement Window Period for LPFM Applicants occurs.³ The Settlement Window offers an opportunity for MX'd LPFM applicants that have piled-on to one channel in a city available opportunity to break-up MX's and proposal singletons via channel change. This is an essential step within the LPFM licensing regime that would stymie new local community radio if a translator window was implemented concurrent or prior to the Settlement Window. Ample time must exist between the 90-day Settlement Window and a proposed AM licensee FM Translator Auction. If LPFM MXs were not dealt with prior to creating additional Translator MXs it would be an insurmountable engineering pile-up of pending applications.

² Para. 14, AM NPRM.

³ See Public Notice: “Media Bureau Identifies Mutually Exclusive Applications Filed in the LPFM Window and Announces 60-day Settlement Period; CDBS is Now Accepting Form 318 Amendments.” DA 13-2397, December 16, 2013.

(C) Protection to LPFM 250 watt upgrades.

Within the LPFM Docket, the FCC entertained the opportunity to allow LPFM applicants to pursue 250 watt facilities, but deferred judgment on ruling upon this issue.⁴ Already, translator licensees enjoy facilities with 5.5 times the service area than current LP-100 facilities.⁵ For fill-in translators, the coverage might be up to 46 times the coverage of a LP-100 facility.⁶ This FM band use does not comport to the sentiment of the LCRA. LP-250 upgrades to current licensees and permittees would solve LP-100 coverage problems in many communities. The FCC should expedite 250-watt upgrade opportunity prior to opening another FM translator auction. If an AM translator filing auction is enacted prior to a LP-250 upgrade, current LPFM permittees and licensees would be “boxed in” and unable to upgrade.

(D) Terms of the LCRA Need to be adhered to.

Section 5 of the LCRA “Ensures Availability of Spectrum” for Low Power FM opportunities. To summarize—licenses should be made available for both LPFM and translator service, and such decision are made based on the needs of the local community. The FCC needs to adequately license both services to this mandate. It must determine what the “needs of the local community” mean. We believe that in certain markets where translators vastly outnumber the number of LPFM facilities licensed, the FCC must protect spectrum for further LPFM licensing. A specific qualitative measure needs be assessed that answers to Section 5 of the LCRA. This might mean that in select markets where there is a huge imbalance—translators vastly

⁴ See “Creation of a Low Power Radio Service: Fifth Order on Reconsideration and Sixth Report and Order.” MM Docket No. 99-25, FCC 12-144, December 4, 2012.

⁵ Section 74.1235 defines the maximum wattage of a translator of 250 watts at 107 meters HAAT (as wattage logically decreases with increasing HAAT). Section 73.811 states the maximum facilities for an LPFM to be 100 watts at 30 meters HAAT. This allows a translator to obtain a maximum of 5.5 times the coverage area compared to an LPFM facility.

⁶ For example, K256AE Provo, Utah: at 250 watts at 814 m HAAT that essentially creates another Salt Lake City-area full power station being fed via HD-2, with a broadcast radius of 38 km.

outnumbering any LPFM—the FCC might open a local LPFM application window concurrent to the AM licensee opportunity to “balance” licensing according to the sentiment of the LCRA.

II. FCC Should Consider Incentive To AM Licensees To Consider Assignment Of Unwanted AM Licenses To Non-Profit Groups

Some AM licensees simply want to leave the broadcast businesses. At times, AM licenses go dark and the licenses are discarded. CFI recommends that there should be some type of incentive program for AM licensees that choose to donate their licenses to local non-profit groups and educational institutions. Such act might breath new life to the AM band: student radio, multicultural/multilingual broadcasting, and community radio.

Some suggestions for a program might include:

(1) The FCC might want to work with the IRS by ensuring a tax write-off for license donation.

(2) The FCC might consider offering some type of “bonus” for an entity to discard their AM channel to a local educational entity: offer the AM licensee “preferential status” in competing for a FM translator for retained AM relocation on FM-only.

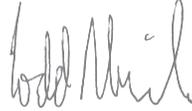
(3) Such transaction should be limited to licenses donated to local nonprofits that do not already own any other broadcast outlet and pledge an educational program.

III. Conclusion

CFI believes it is imperative that LPFM opportunities should be maintained in the light of a new translator filing window—pacing the 90-day LPFM Settlement Window, allowing

LP-250 upgrades prior to any FM translator auction, and heeding the sentiment of the LCRA as it pertains to balancing LPFM and translators per each radio market.

Respectfully Submitted by

A handwritten signature in black ink, appearing to read "Todd Urick". The signature is fluid and cursive, with the first name "Todd" being more prominent than the last name "Urick".

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