

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
Amendment of Part 74 of the Commission's ) MB Docket No. 18-119  
Rules Regarding FM Translator Interference )  
 )

**Comments of the  
National Association of Broadcasters**

**I. Introduction and Summary**

The National Association of Broadcasters (NAB)<sup>1</sup> hereby files comments in support of certain proposals in the above-captioned Notice of Proposed Rulemaking regarding interference conflicts between FM radio stations and FM translators.<sup>2</sup> We appreciate the Commission's approval of a Petition for Rulemaking that we filed in April 2017, in which NAB proposed rules and procedural changes to facilitate the resolution of such conflicts.<sup>3</sup>

FM translators are an increasingly important component of radio broadcasters' service to the public, as their use has expanded beyond providing "fill-in" service to areas where direct reception of a primary radio station is insufficient.<sup>4</sup> Many FM broadcasters now use translators to offer additional content by rebroadcasting HD Radio multicast program services, including highly-valued foreign language, classical and weather programming.<sup>5</sup> In

---

<sup>1</sup> NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

<sup>2</sup> *Amendment of Part 74 of the Commission's Rules Regarding FM Translator Interference*, Notice of Proposed Rulemaking, MB Docket No. 18-119 (May 10, 2018) (Notice).

<sup>3</sup> Petition for Rulemaking, National Association of Broadcasters, RM-11787 (Apr. 20, 2017) (NAB Petition).

<sup>4</sup> *Id.* at 1.

<sup>5</sup> *Id.* at 2.

addition, pursuant to the Commission's AM Radio Revitalization proceeding, the Commission has greatly expanded opportunities for AM broadcasters to use FM translators.<sup>6</sup> As a result, industry and listeners are increasingly interested in ensuring the continuity of translator services. At the same time, the influx of translators has escalated the risk of interference between translators and FM services, sometimes leading to protracted disputes that can tax the resources and patience of both the parties and the Commission.<sup>7</sup> Given these developments, we agree with the Commission that it is timely to consider ways to increase the certainty of translator services, while preserving the technical integrity of the FM band.<sup>8</sup>

As discussed below, NAB supports many of the policy and procedural changes proposed in the Notice. Specifically, amending the Commission's rules to allow an FM translator to change to any available FM channel to resolve interference, as a minor change, would simplify the resolution of a substantial number of interference complaints.<sup>9</sup> We also agree that requiring at least six listener complaints to support an actionable translator interference complaint is a reasonable threshold.<sup>10</sup> NAB further supports the Commission's proposed approach to clarifying the requirements for a *bona fide* listener complaint, including the information that a listener must provide and verify.<sup>11</sup> Finally, the Commission's proposals for improving the complaint resolution process seem reasonable, including an

---

<sup>6</sup> *Revitalization of the AM Radio Service*, First Report and Order, Further Notice of Proposed Rulemaking, and Notice of Inquiry, 30 FCC Rcd 12145, 12149 (2015).

<sup>7</sup> NAB Petition at 3.

<sup>8</sup> Notice at ¶ 27.

<sup>9</sup> *Id.* at ¶¶ 11-15.

<sup>10</sup> *Id.* at ¶¶ 15-17.

<sup>11</sup> *Id.* at ¶¶ 18-20.

increased reliance on technical showings to confirm the elimination of interference instead of, or in addition to, listener assessments.<sup>12</sup>

## **II. Translators Should Be Allowed to Move to Any Available FM Channel as a Minor Change to Resolve Interference**

The Notice takes up NAB's proposal to modify Section 74.1233(a)(1) of the Commission's rules to permit a translator to move to any available FM channel as a minor change to resolve interference to or from another broadcast station.<sup>13</sup> Translators are a secondary service and therefore responsible for curing any interference caused to a full-power FM station. If a translator licensee cannot eliminate the interference through suitable techniques, it must suspend operation until the interference is eliminated.<sup>14</sup> Translator licensees use a range of suitable techniques to address interference short of going off the air, such as reducing power, modifying the antenna's height or orientation, relocating the antenna or using a directional antenna.<sup>15</sup> The most efficient remedy is often a frequency change because it allows for a prompt resolution at minimal cost and with little or no service reduction.

The Commission's current rules governing translator frequency changes, however, severely limits the use of this otherwise significant remedy. Under Section 74.1233, a translator move is only considered a minor change if it is restricted to a first, second or third adjacent, or intermediate frequency-related channel.<sup>16</sup> All other frequency changes invoke

---

<sup>12</sup> *Id.* at ¶¶ 21-22. At this time, NAB defers comment on the proposal in the Notice to identify a signal strength contour beyond which an FM station may not claim interference from an FM translator. We respectfully reserve the right to address this issue in reply comments. *Id.* at ¶¶ 23-29.

<sup>13</sup> 47 C.F.R. § 74.1233(a)(1); Notice at ¶ 11; NAB Petition at 4-7.

<sup>14</sup> 47 C.F.R. § 74.1203(b).

<sup>15</sup> NAB Petition at 5.

<sup>16</sup> 47 C.F.R. § 74.1233(a)(1).

the “major change” process, which may only be requested during a filing window. Due to the unnecessary challenges the current process presents, NAB supports the Commission’s proposal to allow a translator to resolve interference by moving *anywhere* on the FM dial as a minor change. This approach will permit many translator licensees, particularly in markets where the FM band is less congested, to efficiently resolve interference conflicts. No longer would a translator licensee have to wait months or even years for a major change filing window to switch frequencies. A simple channel change would also provide continuous service to listeners who rely on an FM translator for radio service.

Such a policy would also be consistent with the Commission’s current practice of considering major change waivers for displaced FM translators,<sup>17</sup> low power television station and TV translator stations,<sup>18</sup> Class D noncommercial educational FM stations<sup>19</sup> and low power FM stations.<sup>20</sup> Licensees in these other services have used the flexibility provided by this approach to ensure reliable service to listeners, and there is no reason not to provide FM translator licensees with the same ability.

NAB agrees with NTA and REC Networks that a translator should be allowed to move to any available frequency upon a simple showing of interference to or from another broadcast station.<sup>21</sup> As stated in our Petition, a simple engineering statement of mitigation of interference at the requested frequency, perhaps accompanied by an affidavit, should be

---

<sup>17</sup> Notice at ¶ 9 note 43.

<sup>18</sup> 47 C.F.R. § 74.787(a)(4).

<sup>19</sup> *Id.* at § 73.512(d).

<sup>20</sup> *Id.* at § 73.870(a)(1) and (e); *Creation of a Low Power Radio Service Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations*, Fifth Order on Reconsideration and Sixth Report and Order, 27 FCC Rcd 15402, 15444 (2012).

<sup>21</sup> Comments of the National Translator Association (NTA) at 2-3, RM-11787 (May 26, 2017); Comments of REC Networks at 2-3, RM-11787 (June 13, 2017); Notice at ¶ 13.

sufficient.<sup>22</sup> REC Networks notes that such a process would be most efficient and similar to that available to low power FM (LPFM) stations, many of which have implemented channel changes to remedy interference with an FM station.<sup>23</sup> In the same vein, to further streamline the process and help ensure continuous service, NAB reiterates its request that the Commission allow a displaced translator to obtain a construction permit upon learning of the impending displacement, which would become effective when the full-power station actually implements its change.<sup>24</sup>

### **III. Six Listener Complaints to Justify an Actionable Translator Interference Complaint is a Reasonable Threshold**

As discussed in our Petition, translator interference complaints can lead to frustrating, time-consuming disputes, especially concerning the validity and scope of the claimed interference.<sup>25</sup> NAB proposed several procedural changes to improve the process, including a requirement that an actionable interference complaint must be supported by a minimum number of listener complaints. After informally surveying NAB's members and their counsels and holding discussions amongst various radio station owners, NAB proposed that six complaints from *bona fide* listeners would be a reasonable basis for an actionable interference complaint, depending on the specific situation.<sup>26</sup>

In the Notice, the Commission tentatively agrees with NAB's suggestion and seeks comment on this approach.<sup>27</sup> NAB continues to believe that six listener complaints would be a sound starting point in most cases. Requiring a much higher number of complaints could

---

<sup>22</sup> NAB Petition at 7; see *also* NTA Comments at 2.

<sup>23</sup> REC Networks Comments at 2.

<sup>24</sup> NAB Petition at 7 note 22.

<sup>25</sup> *Id.* at 8-9.

<sup>26</sup> *Id.* at 9-10.

<sup>27</sup> Notice at ¶¶ 15-16.

be unduly burdensome on FM stations, and take weeks or longer to receive, during which listeners may abandon a station because of poor reception. Also, some parties observe that every *bona fide* listener complaint may represent only a fraction of the listeners who experience diminished service. Listeners may not even be aware of the cause of their challenges or that a process is available to them to resolve the issue. They may also not be sufficiently motivated to register a complaint.<sup>28</sup>

Finally, we acknowledge the Commission’s finding that interference need not be shown at some sufficient number of locations to demonstrate a problem worthy of Commission action.<sup>29</sup> That said, NAB strongly encourages the Commission to ensure that claimed interference can be demonstrated as actual interference from a specific translator. Also, if appropriate, the Commission should examine claimed interference from multiple locations. Complaints based on selected locations where interference is merely intermittent, fleeting or caused by multipath fading, atmospheric ducting or other unusual conditions, should be carefully examined. The Notice itself proposes to amend the rules to find the existence of interference when the service of six or more listeners, “at separate locations,” is impaired or predicted to be impaired.<sup>30</sup> We believe that such “separate locations” should be construed as multiple, unique locations, to ensure that an interference complaint truly warrants Commission action.

---

<sup>28</sup> Statement in Support of Petition for Rulemaking at 5, Alpha Media LLC, Beasley Media Group, LLC, iHeart Media + Entertainment, Inc., and KMMY, Inc. (Joint Commenters), RM-11787 (May 30, 2017); Comments of Pueblo Broadcasting Group at 16-17, RM-11787 (May 27, 2017). In our initial comments, NAB recognized that the Commission may want to consider factors that might support minor adjustments to this figure, such as whether the desired FM station’s service is rural or urban. NAB Petition at 9.

<sup>29</sup> Notice at ¶ 17.

<sup>30</sup> *Id.* at ¶ 16.

#### IV. NAB Supports the Commission's Proposed Listener Complaint Requirements and Remediation Procedures

NAB supports the Commission's proposals to clarify and codify the requirements for a valid listener complaint about translator interference,<sup>31</sup> which are designed to streamline the complaint process and reduce the burden on listeners. We have no objections to the proposed list of requirements to which a listener must attest: (1) name and contact information; (2) description of the location where interference is witnessed; (3) a statement that the complainant listens to the desired FM station at least twice a month; and (4) a statement that the listener is unaffiliated with the FM station.<sup>32</sup> All of this information is consistent with NAB's Petition.<sup>33</sup> We further agree that requiring a listener to sign such a document up front, and for the Commission to presume such complainants are *bona fide*, will reduce both the frequency and friction of disputes over listener complaints.<sup>34</sup>

We also support the Commission's proposed approach to confirming that a listener is unaffiliated with the desired FM station. Complainants must be unaffiliated, objective listeners to the full-power station, which the Commission has characterized as a person or entity without a legal stake in the outcome of the translator station licensing proceeding.<sup>35</sup> The Notice endorses NAB's suggestion that a listener complaint is valid even if it is solicited by the FM station or received in a standardized format, so long as it includes all the required contact and other information.<sup>36</sup> In the same vein, we agree that social media connections

---

<sup>31</sup> *Id.* at ¶ 18.

<sup>32</sup> *Id.* at ¶ 19.

<sup>33</sup> NAB Petition at 10-12.

<sup>34</sup> Notice at ¶¶ 19-20.

<sup>35</sup> *Association for Community Education, Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 12682, 12688 n. 37 (2004).

<sup>36</sup> Notice at ¶ 20; NAB Petition at 11.

between a listener and a station should not disqualify a listener complainant because such a connection does not represent a legal, financial or familiar affiliation with the station.<sup>37</sup> We believe this approach will help streamline the process for determining the objectivity of listener complainants, and allow the Commission to focus its resources on evaluating the substance of interference conflicts.

Finally, we appreciate the Commission's aim to reduce the role of listeners in the complaint resolution process by requiring translator licensees to rely exclusively on a technical showing to demonstrate that the claimed interference has been eliminated.<sup>38</sup> That said, NAB continues to believe that permitting translator licensees to cure interference problems by replacing or modifying listeners' equipment may be most efficient in some situations. Such an approach would help provide certainty to both FM and translator licensees that additional listeners will not subsequently complain about interference, at least in the same locations. Also, eliminating the interference by modifying a listener's equipment would moot the need for U/D measurements, discussed below.

To illustrate the elimination of interference, NAB supports the proposal to use the U/D ratio methodology in Section 74.1202(f) of the rules, combined with on/off tests, as needed.<sup>39</sup> We believe this approach should be sufficient in most cases. Regarding how to conduct on/off tests, NAB maintains that doing so should be based upon mutually agreeable terms of both the translator and the full-power station.<sup>40</sup> It is not necessary for the Commission to prescribe any specific procedures, equipment or other criteria for conducting

---

<sup>37</sup> Notice at ¶ 20.

<sup>38</sup> *Id.* at ¶ 22.

<sup>39</sup> *Id.*

<sup>40</sup> NAB Petition at 11-12.

these tests. Instead, the parameters should be left to the business and technical discretion of the parties, with the Commission available as a backstop if any disputes arise.

Second, we respectfully reiterate our request for more clarity around the administration of interference complaints, to reduce the burden and frequency of protracted disputes. As NAB discussed, sometimes parties fail to respond promptly to Commission inquiries, perhaps due to competing demands for their attention, or because they lack incentives to cooperate, and sometimes complaints may linger because the Commission must focus its scarce resources on other matters.<sup>41</sup>

In our experience, communication between FM and translator stations is critical to efficiently resolving interference, and adoption of the Commission's proposal to establish a specific deadline for translators to eliminate all substantiated interference complaints would be an important measure.<sup>42</sup> We would support a best practice recommendation that an FM station provide evidence that it has used commercially reasonable efforts to inform the relevant translator licensee of the claimed interference, and if possible, that the translator licensee has received the claim. Then, if the parties are unable to correct the problem privately through some modification of the translator, and the FM station files a properly substantiated complaint to the Commission, resolution of the complaint should be required within 90 days.

Although this 90-day period should be sufficient in most cases, NAB submits that interim deadlines would help keep the process on track. Thus, NAB stated that it would be extremely helpful to the overall process if the Commission committed to a self-imposed

---

<sup>41</sup> *Id.* at 13.

<sup>42</sup> Notice at ¶ 22.

deadline of 15 days to send a letter of inquiry to the offending translator. The Commission should also allow the translator licensee 30 days to respond with a plan to resolve the interference or dispute the interference claim through a technical showing.<sup>43</sup> A translator licensee's failure to respond within this time frame should invite a prompt Commission order to immediately eliminate the interference or immediately cease operation. We believe that such an approach will make the Commission's process more efficient, particularly in cases where claimed interference appears indisputable.

## V. Conclusion

For the foregoing reasons, NAB supports certain of the proposals set forth in the Notice to streamline the Commission's policies and procedures related to translator interference complaints. We appreciate the Commission's efforts to provide translator licensees more certainty while ensuring and preserving the existing service provided by FM broadcasters.

Respectfully submitted,

**NATIONAL ASSOCIATION OF BROADCASTERS**  
1771 N Street, NW  
Washington, DC 20036  
(202) 429-5430



David Layer  
NAB Technology

---

Rick Kaplan  
Larry Walke

August 6, 2018

---

<sup>43</sup> NAB Petition at 13. We respectfully repeat our suggestion that the Commission commit to acting within a 15-day deadline on a translator licensee's application to change frequency or other requested technique to eliminate the claimed interference. This approach will provide translator licensees additional certainty that their service will continue uninterrupted.