

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

In the Matter of)	
)	
Petition for Rulemaking by)	
SSR Communications, Inc.)	RM-11643
)	
Amendment of Section 73.215 of the)	
Commission's Rules Related to)	
Contour Protection for Short Spaced)	
FM Assignments)	

**REPLY COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (“NAB”)¹ provides these reply comments on the above-captioned Petition for Rulemaking.² As discussed in our initial comments,³ NAB opposes the request of SSR Communications, Inc. to eliminate the minimum distance separation standards that govern the allocation and modification of FM radio stations.⁴ Those requirements have enabled the expansion and improvement of FM radio service for the benefit of both listeners and the radio industry.

The record demonstrates that adopting the Petitioner’s proposals would significantly harm radio service by increasing congestion in the non-reserved band and

¹ 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.

² Amendment of Section 73.215 of the Commission’s Rules related to Contour Protection for Short Spaced FM Assignments, *Petition for Rulemaking*, SSR Communications, Inc., RM-11643 (filed August 8, 2011) (Petition).

³ Comments of the National Association of Broadcasters, RM-11643, at 2-5 (filed Oct. 28, 2011).

⁴ Petition at 1-2; 47 C.F.R. § 73.215 (channel spacing rules for non-reserved band); 47 C.F.R. § 73.509 (contour protections for reserved band).

hindering FM station improvements.⁵ As detailed by Beasley, *et al.*, the Commission has repeatedly concluded that minimum distance separation requirements are necessary to preserve the integrity of the FM band because they help to prevent overcrowding and foster a fair distribution of stations.⁶ A move to contour protection standards, as the Petitioner proposes, would create new congestion and interference that would harm listeners who rely on existing stations.⁷

Commenters in support of the Petition do not offer any independent reasons for overturning these long-standing rules beyond those already refuted in the record. These parties largely repeat the Petitioner's claims without additional evidence,⁸ while two of them also describe situations in which adopting the proposed rule changes would aid their stations specifically.⁹

The record, however, demonstrates that adopting the rule proposals would in fact prevent many existing FM stations from improving their service, including modifications to reach audiences that have shifted geographically. NAB Comments at 6. Stations with antennas on tower sites that become unavailable would be locked-in and unable to relocate. NAB Comments at 7; Beasley, *et al.* Comments at 10. Also, stations that

⁵ NAB Comments at 2-9; Joint Statement of Beasley Broadcast Group, Inc., *et al.*, RM-11643, at 2-12 (filed Oct. 28, 2011); Comments of iBiquity Digital Corporation, RM-11643, at 3-5 (filed Oct. 27, 2011).

⁶ Beasley, *et al.* Comments at 4-5 citing Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules, *Notice of Proposed Rulemaking*, 13 FCC Rcd 14849, 14860 (1998); Amendment of the Commission's Rules to Permit FM Channel and Class Modifications by Application, *Report and Order*, 8 FCC Rcd 4735, 4737 (1993).

⁷ NAB Comments at 4-5; Beasley, *et al.* Comments at 5-6.

⁸ See, e.g., Comments of Communications General Corporation, RM-11643, at 1-2 (filed Oct. 28, 2011); Comments of Thomas S. Desmond, RM-11643, at 1 (filed Oct. 12, 2011); Comments of KD Radio, Inc., RM-11643, at 1-3 (filed Oct. 27, 2011); Comments of Damon Collins, RM-11643, at 1 (filed Oct. 11, 2011).

⁹ Collins Comments at 1; KD Radio Comments at 1-2.

have not yet maximized power levels, perhaps because of financial constraints or a business plan that calls for certain audience targets before expansion, would be hemmed-in at current power levels. Beasley, *et al.* Comments at 9-10.

Significantly, changing the rules as proposed could also negatively impact the roll-out of HD Radio. As iBiquity explains, the suggested rule changes would allow stations to potentially increase their analog footprint or allow new short-spaced FM stations to obtain licenses. Either development could increase the risk of both analog to digital interference, and digital to analog interference. iBiquity Comments at 2-3. iBiquity notes that the Petition does not address the fact that all HD Radio testing conducted by the National Radio Systems Committee assumed the continued application of the existing interference protection standards. *Id.* at 3. Increasing analog interference in short-spaced situations will “inevitably” impact digital coverage in certain areas. *Id.* Such an outcome would directly undercut the Commission’s recent decision to permit FM stations to increase their digital power to allow them to provide digital coverage on par with their analog coverage.¹⁰ As a result, adopting the Petitioner’s proposals could harm the quality of HD Radio and significantly hamper investment in this still emerging technology, at a critical juncture in its development. Risking the growth of HD Radio in this manner would not serve the listening public.

¹⁰ iBiquity Comments at 3-4 citing Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service, *Order*, 25 FCC Rcd 1182 (2010).

For all the reasons stated herein, NAB opposes the rule changes proposed in the Petition, and respectfully requests that the Commission dismiss the Petition.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jane E. Mago".

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