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Media Memo

October 2012

FCC Adopts Processing Rules for FM Translator Applications filed in the 2003 Window

Under new processing guidelines, approximately 1,000 of the 6,500 pending FM translator applications will be eligible for grant. The others will be dismissed. The FCC's Order attempts to balance the competing interests of Low Power FM applicants and FM translator applicants as mandated by the Local Community Radio Act of 2010.

As a threshold matter, the FCC imposed a national cap of 50 translator applications and a market-based cap of one application per applicant for some 156 markets. (Petitions for reconsideration regarding the caps were pending at the time of this writing.) The FCC will issue a Public Notice announcing the deadline by which applicants must select which FM translator applications they wish to have processed that fit within the caps.

The 156 markets include the top-150 ranked markets in the country, as defined by Arbitron, plus Quad Cities (Davenport-Rock Island-Moline) IA/IL, Flagstaff-Prescott, AZ, Asheville, NC, San Luis Obispo, CA, Danbury, CT and Santa Barbara, CA, markets where more than four translator applications are pending. All of those markets were listed in Appendix A to the FCC's Order. A copy of Appendix A is available at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-29A2.pdf.

Appendix A also lists which markets are considered to be "spectrum limited." The FCC will dismiss FM translator applications in spectrum limited markets.

To determine which markets are spectrum limited, the FCC centered a 31 minute latitude by 31 minute longitude grid over each market and studied each of the 100 FM channels to determine whether any opportunity for future LPFM stations remained available at each location on the grid ("channel/point combinations"). In calculating "available" channels, the FCC counted vacant and currently licensed LPFM channels. A market was determined to have "spectrum available" for future LPFM service if the market exceeded the following LPFM floors:

• Markets 1 – 20:	8 LPFM Channels
• Markets 21 – 50:	7 LPFM Channels
• Markets 51 – 100:	6 LPFM Channels
• Markets 101-150 and additional 6 smaller markets with more than 4 pending translator applications:	5 LPFM Channels
• Other markets	No floor

If spectrum was available in any Appendix A market, the FCC analyzed the market to see if 75% or more of the population was concentrated within a 21x21 minute grid. If further study showed the 21x21 grid to be "spectrum limited," FM translator applications in those markets will be dismissed. The 21x21 grid markets

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are listed in Appendix B, available at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-29A3.pdf.

A translator applicant in "spectrum limited" markets will be allowed to demonstrate that the grant of its application would not preclude opportunities for LPFM. Such a showing may be possible given that contour protection rules imposed on translators are more forgiving than channel spacing rules imposed on LPFM stations. In such a case, no LPFM station could be located at the translator applicant's proposed site because the potential LPFM station would fail to meet the channel spacing requirements. Further, amendments to translator applications in top 50 spectrum limited markets are subject to an additional preclusion showing described below.

Translator applicants will be allowed to amend their applications so long as the amended proposal does not eliminate any LPFM channel/point combination in any of the 156 market grids. Amendments will be processed on a first come, first served basis. Protected LPFM channel/point combinations will be treated differently in spectrum available and spectrum limited markets, as follows:

Spectrum Limited Market	Spectrum Available Market
Dismiss all FM translator applications in the market.	Process pending FM translator applications after application of caps.
Only one chance to amend to eliminate preclusive impact on protected LPFM channel/point combinations.	Amendments may not conflict with any protected LPFM channel/point combinations.
In making calculations for "protecting" a channel/point combination: -Assume that LPFM applicant will receive a 2nd adjacent channel waiver. -Do not take into account I.F. spacing requirements for potential LPFM applicants. -Assume dismissal of all FM translator applications.	Channel/point combination must be "protected" only if LPFM operations at the site will be fully spaced to all pending translator applications on co-, 1st, and 2nd adjacent channels (and meet other spacing requirements).
Top 50 Market Preclusion Showing Calculations	
An FM translator applicant in any top 50 Arbitron spectrum limited market must demonstrate that its out-of-grid proposal would not preclude the only LPFM licensing opportunity at that site (the "Top 50 Market Preclusion Showing"). Applicant must demonstrate either that no LPFM station could be licensed to the proposed transmitter site, or, if an LPFM station could be licensed at the site, an additional channel remains available for future LPFM operations at the same site.	Protection scheme in spectrum available markets 1-50 and for all other studied markets (regardless of spectrum availability) are limited to the market's applicable 31x31 or 21x21 grid channel/point combinations so long as the minimum LPFM-translator distance separation requirements outside the grid are met (i.e., 39 km buffer zone around the grid).

After applicants have selected the applications that are consistent with the caps, the FCC will process the remaining applications in "spectrum available" markets, starting with singletons. Mutually exclusive ("MX'd") applications from this group will be placed on Public Notice and afforded a 60-90 day window to try to settle or amend to resolve the mutual exclusivity. If amendments or settlements do not resolve the mutual exclusivity, applicants in those groups will be set for auction, with the high bidder winning the grant.

The FCC has yet to determine whether NCE applicants in mixed commercial - noncommerical MX groups will have their applications dismissed or be permitted to amend to specify commercial service so that they can proceed to auction. MX groups consisting solely of NCE applicants, however, will proceed to a point system analysis.

The FCC's anti-collusion rule continues in effect *except* during the 60-90 day settlement window. Thus, applicants cannot speak to other MX'd applicants in determining which applications to continue to process to meet the national and market-based caps. Nor will they be able to speak to other MX'd applicants during the period between the closing of the settlement window and the filing of the long form application after the auction.

In the same Order, the FCC partially relaxed the restriction on use of FM translators to rebroadcast AM stations. The FCC will allow any applications granted out of the 2003 window, not just those translators that were already authorized by May 1, 2009, to be used as fill-in service for AM stations.

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