DOCKET FILE COPY ORIGINAL

MM 99-25

Federal Communications Commission **DA 98-2560**

Federal Communications Commission
Washington, D.C. 20554

RECEIVED

JUL 28 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

December 21, 1998

Mr. Joel Lawrence Efrein
P.O. Box 199
Kilauea, HI 96754

Dear Mr. Efrein:

This is in response to your undated petition that we received November 16, 1998, proposing an amendment to our rules to reserve FM Channel 300, 107.9 MHz, for very-low-power FM radio broadcasting pursuant to current Part 15 rules.

Your petition describes your Part 15-based operations and requests that FM Channel 300 be vacated, then reserved for operations such as yours nationally. You suggest that the transition from analog to digital affords an opportunity to re-assign existing Channel 300 FM stations to other FM channels. You further suggest that the cost to those stations "can be rebated in tax credits and a better, longer, signal range."

Your petition is seriously flawed and is being denied. There currently is no transition from analog to digital in the FM Broadcast service, and thus, no "opportunity" to clear all licensed FM stations from a channel. The FM broadcast spectrum is heavily used, with many stations operating on each and every channel. For most, if not all, existing stations, there are not alternate channels available to which they could move in conformance with our rules. Your petition fails to adequately address this substantial negative impact on existing FM broadcast licensees and therefore plainly does not warrant consideration by the Commission.

Accordingly, your petition for rule making to reserve FM Channel 300 for unlicensed, Part 15, very-low-power FM broadcast service IS DENIED. This action is taken by the Chief, Policy and Rules Division, Mass Media Bureau, under authority delegated by Sections 0.61, 0.204(b), 0.283 and 1.401(e) of the Commission's Rules, 47 C.F.R. Sections 0.61, 0.204(b), 0.283(b), 1.401(e).

Sincerely,

Charles W. Logan
Chief, Policy and Rules Division
Mass Media Bureau

No. of Copies rec'd 2
List A B C D E

24539

DANIEL K. INOUYE
HAWAII

APPROPRIATIONS
Subcommittee on Defense

COMMERCE, SCIENCE, AND TRANSPORTATION
Subcommittee on Surface Transportation
and Merchant Marine

COMMITTEE ON INDIAN AFFAIRS

DEMOCRATIC STEERING COMMITTEE

COMMITTEE ON RULES AND ADMINISTRATION

JOINT COMMITTEE ON PRINTING

United States Senate

SUITE 722, HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-1102
(202) 224-3934
FAX (202) 224-6747

PRINCE KUHIO FEDERAL BUILDING
ROOM 7-212, 300 ALA MOANA BOULEVARD
HONOLULU, HI 96850-4975
(808) 541-2542
FAX (808) 541-2549

101 AUPUNI STREET, NO. 205
HILO, HI 96720
(808) 935-0844
FAX (808) 961-5163

June 13, 2000

RECEIVED 4438

JUL 28 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

JUN 27 11 43 AM '00

The Honorable William Kennard
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Mr. Chairman:

I wish to share with you a letter I received from my constituent, Mr. Joel Efrein, concerning his efforts to preserve opportunities for public site broadcasts.

I would appreciate your reviewing the enclosed materials and commenting on the concerns raised by Mr. Efrein.

Thank you for your consideration of this matter.

Aloha,

DANIEL K. INOUYE
United States Senator

DKI:mlc
Enclosure

Hawaii
Slippery Slide Falls
P.O. Box 199
Kilauea, Hawaii 96754

RadioTour™ U.S.A.

New York
P.O. Box 165
Loch Sheldrake,
New York 12759

RECEIVED

JUL 2 8 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. Eddie Fritts , Pres. and CEO
National Association of Broadcasters
1771 N St. N. W.
Washington, D.C. 20036

May 15, 2000

Dear Mr .Fritts,

As a Part 15 FM site broadcast provider for Federal, State and County attractions in Hawaii we have watched the FCC's Low Power FM proceedings with trepidation. The Petition for a Rulemaking which RadioTour submitted , had accepted and denied all in November, 1999 (enc.), is still the solution of choice for the broadcasting industry; reserve Channel 300 for all Part 15 FM broadcasters, public or private.

What is the difference between a regular broadcast station and a site broadcasting station? A site broadcast need only be large enough to cover the parking lot. It's the FM version of traveler AM , only without the power. Part 15 FM is a Small is Beautiful information media for travelers at National Wildlife Refuges and Farmer's Markets in Hawaii. They all use the *RadioTour/Hawaii - 98.9 FM - Tune to Visitor Information* , blue and white frequency sign and Hawaii hopes that the FCC doesn't give this frequency out to one operator and disappoint all the public facilities that like having a universal FM frequency in Hawaii (See Comments).

Part 15 FM site broadcasts are crushed by regular radio stations , even raising the power of Part 15 FM to a massive 1/10th watt signal for Tier Two - (Public and Non-Profits Only) poses no interference problems for regular radio stations. There would no Part 15 FM pirates , it's only

good for practical information delivery, or really local stuff. The FCC can vacate Channel 300 in a flash by offering upgrades and inducements to current occupants. The FCC can authorize Part 15 FM -Tier Two(Public and Non-Profit facilities) internally without a fuss. Would the NAB okay 1/10th Watt stations for public and non-profit use? These are viable options that would please , and satisfy , everyone and antagonize no one.

More importantly democracy is encapsulated in our public and non-profit organizations; each worthy of respect and FM access in their specific area. The ground owned by the public and non-profits should give them the equivalent to guaranteed FM access in their small areas. Forgetting the money for a second - no free speech access , no democracy. Ignorance of the law is no excuse, but unjust laws are what caused the American Revolution. Forget spirituality , if you can , but what about DOT, DOI, DOE - all site broadcasting candidates? Maybe Big is Better for regular broadcasters, but Small is Viable for site broadcasting. Save a piece of the FM spectrum for everyone. Support Part 15 FM site broadcasting , each 100 watt station will destroy the broadcasting opportunities for dozens of other local groups , and the range is too odd to be viable.

Respectfully submitted,

Joel Efrein , RadioTour

cc:
James Crutchfield, FCC FM Bureau
Senator Daniel K. Inouye(D/H)
Mayor Maryanne Kusaka , Kauai
Mel Nishihara , Kauai Parks and Recreation
Tom Alexander, Kilauea National Wildlife Refuge
Chipper Wichman , Limahuli Gardens
Steve Kyono , State of Hawaii Transportation Department
Dr. Terry Sekioka , University of Hawaii Cooperative Extension Service
Juliette Tulang , Hawaii County Parks and Recreation
Henry Oliza , Maui County Parks and Recreation
William Balfour, Jr. , Oahu County Parks and Recreation
Kensaku Hogen, Under Secretary General for Communications (UN)
Others

To the Office of the Secretary:

Federal Communications Commission
Regarding Docket 99-25 - New FM Allocations
Submitted by RadioTour, P.O. Box 199 , Kilauea , Hawaii
March 21,1999

Where are America's value systems? Our democratic values are in our public institutions. Our public institutions represent America's national values, annealed over two hundred years. They are what makes America the envy of the world - our public systems work fairly and equitably.

Site Broadcasting

FM site broadcasts are repeating short (200' to 500') broadcasts that are physically grounded to specific locations to deliver public service messages. A public service assumption always underlies a broadcast in the RadioTour system. RadioTour considers military bases(our defense), grade schools(our kids) , parks(our recreation) , historical sites(our heritage) , hospitals(our health system) , Veteran's Center(our obligations) , Toll Booths(our economy) , Truck Weigh Station(our regulations) , Gas Plazas(our lunch) , Visitor's Centers(our public attractions), Memorials(our values) , Libraries(our knowledge) , Fire Stations(our life) , Cooperative Extension Services (our food chain) , Police Stations(our safety) , Zoos(our experiences) , Fairs(our fun), Refuse Stations(our garbage), Recreation Areas (our freedom), DOT Emergency Phone sites(our service) and even Disney(our fantasies) , all should be able access an FM frequency in the airspace over their physical terrain to deliver appropriate public information to a known traveler at a known location. This system is especially applicable to the disabled and the blind.

SITE BROADCASTS ALWAYS HAVE A DEFINED local MISSION. Each public site has it's own informational values which are a vital part of the web of democracy that America has created. The FCC already has an FM broadcast system that is open, completely fair, non-competitive, public and private, territorially based , digital and high fidelity called Part 15 FM which can also serve the special needs of churches, religious groups, community groups based around a community center, minority groups at their place of meeting, as well civic and non-profit groups of all stripes ; no exclusions - no one left out with nobody's airspace violated forever.

FM is the media of choice. American government facilities should have first priority, but at least some access, to the public airwaves, if there is a proven benefit for the commonweal. RadioTour has delivered the proof in RadioTour/Hawaii. There is a need for a single FM frequency for public site broadcasts for traveler convenience. This premise was already established on the AM side for good reason. Within existing Part 15 FM rules, regulations and technical standards the FCC has empowered every public institution in America to deliver their message , in their own time, on the most ubiquitous mass media for vehicles , FM radio. Responsibilities must be linked to rights in a democracy. Repeating public

information site broadcasts are totally different from regular radio stations. Site broadcasting is using radio for communications , rather than principally as an advertising vehicle. Factual broadcasts need to be available to travelers on the FM band. There is no substitute for 24 hour a day repeating FM broadcasts.

Democracy needs to be renewed for each generation. It is a necessary precursor for consumer based capitalism. We can't play ignorant about the value of a common FM frequency; multiple stations using a single frequency. Give site broadcasting another look before making up your minds about America's radio policies- forever(with protection guarantees). Allow for Part 15 FM site broadcasts to survive on one frequency

The FCC needs to allow the State of Hawaii to designate an FM frequency(Channel) for public site broadcasts. SITE BROADCASTING IS GOOD FOR REGULAR RADIO STATIONS. It makes the traveler turn on their radio to hear the information. When the Part 15 station is out of range, the traveler tunes to another radio station . This fact has been established through Lihue Airport rental car tests in 1994 by the Aloha Lei Network in Hawaii.

Part 15 FM is open to the public, everyone , every business , every public institution. How can the FCC have authorized it without providing for a frequency on which the public can use it? In Hawaii there are 55 "quiet spots on the dial" that could be used as universal frequencies in the State of Hawaii. RadioTour would like the FCC to allow the Governor of the State of Hawaii to designate a universal Part 15 FM frequency for the State, and not violate that covenant.

Hawaii has already approved the RadioTour/Hawaii frequency designation logo for State of Hawaii Transportation Department display on State roads. Hawaii has no AM traveler information stations and is therefore able to develop an entirely FM traveler information system. Part 15 FM is strong enough for most DOT applications , and certainly for Emergency Phone Site broadcasts, airport broadcasts , Truck Weigh Station instructions and Visitor Information Centers. This is perhaps the nation's last opportunity to explore FM for public site broadcasts.

Part 15 FM is called Low Power FM already. The FCC can authorize Part 15 FM Tier 2 , a One Tenth (1/10) Watt licensed transmitter. In the site broadcasting world that the FCC seeks to address in 99-25 , this is a big gun in a small package. This signal will also be more than adequate for the benificiaries mentioned in 99-25.

Sell cyberstation licenses to make money. No territory , but the station is approved for broadcasting as a radio station on a cable system or satellite program : no ground at all. The FCC can authorize unlimited numbers of Cyberstations for delivery via cable systems and satellites. The cable industry should gladly let the FCC license their prospective users to assure credentials and huddle under the FCC's R&R. This will give new representation to the public through the core urban cable systems, and rurally through the satellite systems , where you want more diversity that is locally inspired. This should be a pot of gold for the FCC and the cable and satellite companies. Cable, network and satellite companies need this kind of massive product input to glean and rotate stories with enough interest to warrant national pickup by the networks . Only the cable companies and the satellite companies have the capacity to feed themselves. Don't take it out on the public by depriving them of access to the most prevalent local mass media, FM radio.

The FCC should outlaw virtual stations. If you give a license for an area, the holder should have local programming, an office and a studio. This make stations more viable for sweat equity broadcasters interested in the community's values and tastes, while pushing the virtual stations into the Cyberstation category. Let them compete for cable radio space and mandate cable systems to carry locally allocated "Cyberstations" representing the various special interests noted in Docket 99-25, and any entrepenaur with an idea.

The FCC doesn't care how cable feeds itself, or how much money they make from all ends of the business. We are on the path of conflict-to-resolution by media exposure as our principal mode of problem solving, but we need to leven that with correct information at appropriate locations to inform an educated citizenry. What the public needs is the return of an FM frequency for legitimate public Part 15 FM site information, just like Dick Tracy had. All of your 99-25 beneficiaries can be covered - all of them - every one of them - one way or the other , by Cyberstations or 1/10th Watt Site broadcast stations. Once the public has taken to the media by establishing designated frequencies, there will be additional value to private Part 15 FM station owners, who can compatibly share the same frequency.

To summarize, the FCC should reserve an FM frequency(Channel) for site broadcasts, or allow the States to do so. Secondly, the FCC should consider a 1/10th Watt FM signal as being a powerhouse for site broadcasting; by public facilities, and private or non-profit organizations , and particularly the stated beneficiaries of 99-25, who are local groups. Want to generate money? Sell Cyberstation licenses for cable and satellite deployment only. A Cyberstation license is very valuable because it will allow the owner to approach any cable or satellite network and negociate arrangements that could be national in scope. This deepens the pool of broadcasters who could rise to national prominence.

Save a piece of the real FM spectrum for real people at real sites to use when they need it for practical purposes. It is not too much to ask at this time in the FM spectrum. Authorizing the State of Hawaii to legitimize site broadcasting in the State will enable Hawaii to model FM site broadcast usage for the nation, and for international countries seeking ways to broadcast factual information to visitors and locals.

New thinking acknowledges the educational needs of society at certain designated locations to reiterate for generations the values , rights and responsibilities of a democratic society.

Respectfully submitted,

Joel Lawrence Efrein March 21, 1999

The Significance of Public Site Broadcasts in a Democracy

Public facilities are the repository of our social values in a democracy. These institutions have been granted the powers to provide standard services to our citizenry that reflects equality under the law. Providing information about our public institutions and their service functions to the public enables a citizen to participate in the democratic process by being aware of the rights and responsibilities inherent in their American heritage.

It is incumbent upon our society to favor our governmental institutions with access to the public airwaves to disseminate public service information that enables the proper functioning of democracy by educated citizens. It is at the significant sites where the government is interacting with it's citizenry that democracy manifests itself as a helpful agent. At these junctures established public agencies can aid and enable the proper functioning of society. The government has an obligation to be of service and promote policies and circumstances that create the commonweal of interest for which democracy is noted.

There can not be a higher function of government then providing information that consistently regenerates the mores and values of society. There is no denying that communications is the final bastion of universal human values and social relationships and that while every society can be defined by it's main trends in communication, the social nature of humans is the most fundamental philosophical premise for communications policy. The central issue of social development is not the well being or self fulfillment of individuals (or corporations) but rather the relationship structure that fashions the common matrix of our ethical, moral and social dealings with each other. This moral heritage is often enshrined, and only deliverable, aurally ; Man's basic communications media. This alone should vouchsafe the public interest in FM frequency allocations. If a fundamental value of American communications media is to provide a global protonorm of capitalism, defined as truthfulness in media and caveat emptor, still there is the public interest that must be considered in a democracy.

Public and private partnerships

The unique nature of the RadioTour's public and private partnership in the public interest provides on-site information to citizens regarding specific site issues and general information of value , concern or interest: each broadcast is unique. To support this broadcast system RadioTour enables private businesses to show their support for public facilities by enabling them to disseminate information to the public in accordance in return for a PSA style sponsor acknowledgement. This enables companies to reinforce a democratic society's ability to educate it's citizenry.

InterpEdge
The International Journal on Innovation, Technology, and Cutting Edge Thought for Interpretive Communication

New Visitor Information Network Has Value Standards

RECEIVED
JUL 28 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Thank you for your letters concerning low power FM radio services. You will be pleased to know that I reviewed your materials and initiated an inquiry with the Federal Communications Commission (FCC) on your behalf. I will share any response I receive from the FCC with you.

RECEIVED

United States Senate
SUITE 722, HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-1102
(202) 224-3934
FAX (202) 224-6747

March 30, 1999

DANIEL K. INOUYE
United States Senator

we feel that Radio Tour/Hawaii would provide an enhancement to our visitors and residents alike on the history and culture of each attraction. We would be able to provide information regarding local landmarks as well as safety warnings at our popular beaches. We support Radio Tour/Hawaii in their efforts.

County of Hawaii
DEPARTMENT OF PARKS AND RECREATION
25 Aupuni Street, Room 210 • Hilo, Hawaii 96720-4252
(808) 961-8311

Juliette Tulang
DIRECTOR

the residents and visitors of Maui County." We feel that RadioTour/Hawaii would provide us the means to be able to reach our visitors and residents alike in an unobtrusive and enlightening manner. We would be able to provide information regarding local landmarks as well as safety warnings at our popular beaches. We support RadioTour/Hawaii in their efforts.

Sincerely,

Henry Oliva, Director
Department of Parks and Recreation

DEPARTMENT OF
PARKS AND RECREATION
COUNTY OF MAUI

On Kaua'i, nearly one-half of our economy is fueled by the tourism industry. As the County's chief executive, I support the efforts of local entrepreneurs to enhance our visitors' experience through visitor information broadcasting. Therefore, I ask that you reserve 98.9FM for visitor information broadcasting in Hawai'i.

Your favorable consideration of t

MEMORANDUM OF UNDERSTANDING
BETWEEN
FISH AND WILDLIFE SERVICE
FWS # 1448-12519-98-J016
AND

With

UNITED STA F INTERIOR

COOPERATIVE EXTENSION SERVICE

University of Hawai'i at Manoa • College of Tropical Agriculture and Human Resources
United States Department of Agriculture Cooperating

April 28, 2000

RECEIVED
JUL 28 2000

Mr. Joel Efrein
RadioTour
P.O. Box 199
Kilauea, HI 96754

Dear Joel:

Enclosed are several leaflets on different subjects. If these articles are not appropriate, please call me. The information presented is probably too extensive to be covered in one broadcast. I suggest that the listeners call the CES Office for a copy of the publication.

Sincerely,

Terry

Terry Sekioka
Interim County Administrator

Enclosures
(Ten Ways to Prevent Child Abuse in Your Community, Kids: Hawaii's Treasure, Stress & Changes In The Face Of Job Loss, Be Safe: A Home Guide to Help Keep Food Safe, Processing Taro Chips, Understanding Financial Behavior, Investing in a Second Marriage, Lychee)

Space reserved for you?

Kauai County • 3060 Eiwa St. Room 210 • Lihue, HI 96766-1881

An Equal Opportunity/Affirmative Action Institution

Hawaii
Slippery Slide Falls
P.O. Box 199
Kilauea, Hawaii 96754

RadioTour™ U.S.A.

CM BROADC

New York
P.O. Box 165
Loch Sheldrake,
New York 12759

RECEIVED
JUL 28 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Aloha Senator,

It's now or never for FM so I'm mailing the enclosed packet widely. Wing and a prayer. I am hoping that Joe Collins at TM , so instrumental in C-Span and public access , will bring the issue some national press.

Hawaii's friend in broadcasting ,