

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
The Mitre Corporation’s Technical Report,) **MM Docket No. 99-25**
“Experimental Measurements of the Third-)
Adjacent-Channel Impact of Low-Power)
FM Stations”)

To: The Commission

COMMENTS OF THE LIVINGSTON RADIO COMPANY

1. The Livingston Radio Company (“Livingston”) hereby submits these comments in response to the Commission’s public notice of July 11, 2003¹, seeking public comment on the above-captioned report by the MITRE Corporation (“Report”). The Report addresses the anticipated impact if the Commission relaxes restrictions on Low Power FM (“LPFM”) radio stations that seek to operate on third-adjacent channels to full-power FM broadcast stations. Livingston is the licensee of Station WHMI-FM, a Class A FM station at Howell, Michigan, which is in Livingston County.

2. The Report indicates that at the protected contour of a full power FM station, a third-adjacent channel LPFM station would be expected to cause interference over a radius of 1.1 km around the LPFM transmitter, which equates to an area of about 3.8 square kilometers. The area becomes smaller the greater the signal strength of the protected full power station (usually closer to the full power transmitter site). In other words, a third-adjacent LPFM station would in effect punch a “bullet hole” of 3.8 sq. km. or less in the service area of a full power station.

¹ DA 03-2777.

3. While a 3.8 sq. km. bullet hole might not sound at first like a serious problem standing alone, that number cannot in real practice be evaluated in a vacuum. First, the initial filing window indicates that the demand for LPFM stations is high. Thus it is reasonable to anticipate that if the third-adjacent channel rule is relaxed, many new applications will be filed, creating multiple bullet holes in a full power station's service area. The cumulative adverse impact could be dramatic, leaving the full power station with a service area looking like a slice of Swiss cheese. The present rules do not take into account the cumulative impact of multiple LPFM stations. While it might complicate the analysis to consider cumulative impact, Livingston submits that no valid public interest determination can be reached without looking at the full picture.

4. Another problem with evaluating the analysis in the Report is that it deals with only geographic area and not population. Because the service area of LPFM stations is small, applicants are likely to do their best to locate transmitters where the population is most dense. Thus even an interference area of less than 3.8 sq. km. may include a significant number of listeners, to the serious detriment of the full power licensee, and certainly far from *de minimis*.

5. Finally, the Report's conclusions are based on predicted rather than actual coverage. An FM station's signal strength contours are only statistical predictions. At any one place where a listener is trying to tune in, including at or near the site of an LPFM transmitter, the actual signal strength of a full power station may be substantially less. Thus the adverse impact of an LPFM station will likely be worse for some listeners than computers predict unless the LPFM and full power FM transmitters are collocated.

6. These issues are very important to WHMI-FM and Livingston County. WHMI-FM is the only broadcast facility providing locally-based service to Livingston County, the only economically realistic broadcast outlet for local county advertisers, and the only outlet focusing on Livingston County problems and emergency information. WHMI-FM is owner-operated by Mr. and Mrs. Gregory Jablonski, who have no other media interests. Their station is the only one that gives first priority to local Livingston County news and information. WHMI-FM already suffers interference from a “super powered” station in Grand Rapids, Michigan.² If the service area that remains were turned into a “Swiss cheese” pattern by LPFM stations, WHMI-FM’s service area would be further diminished, and many residents of Livingston County could lose their only source of local broadcast news and emergency information.

7. The laws of physics apply at all power levels, not just high power; and they cannot be ignored just because LPFM stations operate at lower power than their full power counterparts. Livingston fears that the Commission is trying too hard to brush the laws of physics aside because of its public policy objective of increasing the number of media voices. The ultimate impact could be the opposite if areas like Livingston County suffer impairment of their only local electronic media outlet.

8. Accordingly, Livingston urges the Commission to look behind the conclusions of the Report and to assess the cumulative impact of LPFM stations on full power stations’ service areas, especially on local service in markets that do not have a plethora of locally-oriented outlets. The third-adjacent channel rule should not be relaxed; or if

² WBCT(FM), Class B, 320 kilowatts at 238 meters. Super-powered stations operate with more than the maximum height and/or power for their class and are permitted to so operate because they were authorized prior to the adoption of the present limits.

some relaxation is deemed to be in the public interest, such relaxation should be a reduction, not an elimination, and should apply to all classes of FM stations. LPFM stations should not be afforded special status.

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October 14, 2003

Respectfully submitted,

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