



Federal Communications Commission
Washington, D.C. 20554

April 6, 2010

DA 10-599

In Reply Refer To:

1800B3-KAD

Released April 6, 2010

Mr. Jonathan E. Hardis
356 Chestertown Street
Gaithersburg, MD 20878-5724

In re: Digital Audio Broadcasting Systems
And Their Impact on the Terrestrial
Radio Broadcast Service, MM Docket
No. 99-325

Application for Review

Dear Mr. Hardis:

We have before us an Application for Review filed by Jonathan E. Hardis on March 17, 2010 (the "Application for Review"). The Application for Review was filed in response to an Order ("*Digital Audio Order*") adopted by the Media Bureau under delegated authority in the referenced proceeding.¹ The *Digital Audio Order* was released by the Bureau on January 29, 2010, but has not yet been published in the *Federal Register*.

Applications for Review are governed by Section 1.115(d) of the Commission's Rules ("Rules"). Pursuant to this Rule, an application for review must be filed within 30 days of public notice of a final action. Under Section 1.4(b)(1), "public notice" occurs on the date a rulemaking order is published in the *Federal Register*.

Because the *Digital Audio Order* has not yet been published in the *Federal Register*, the pleading cycle for the reconsideration or review of the *Digital Audio Order* has not yet been established. The Application for Review was therefore prematurely filed and will be dismissed without prejudice. Dismissal will permit interested parties to respond to initial filings in an efficient and coordinated manner while eliminating unnecessary burdens that could arise from the seriatim and piecemeal consideration of issues raised in pleadings submitted in response to the release of the *Digital Audio Order*. In dismissing the Application for Review, however, we do not intend to prejudice Mr. Hardis's right to re-file within 30 days of the publication of the *Digital Audio Order* in the *Federal Register*.

¹ *Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service*, Order, 25 FCC Rcd 1182 (2010).

Accordingly, the Application for Review, filed by Jonathan E. Hardis on March 17, 2010, IS
HEREBY DISMISSED WITHOUT PREJUDICE.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Steven Lerman, Esq., Lerman Senter, PLLC
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