

## 1961 CLEAR CHANNEL REPORT:

Supplement to report and order modifies restrictions on frequencies adjacent to 12 class I-A channels reserved for future use. Pending applications on these adjacent frequencies will be studied with view to evolving standards to permit processing of these and other applications which it may be possible to accept later. Until these standards develop, no new applications for new stations on, for change of frequency to, or for increase in power or nighttime operation on these adjacent frequencies will be accepted.

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON 25, D.C.

In the Matter of  
CLEAR CHANNEL BROADCASTING IN THE STANDARD BROADCAST BAND } Docket No. 6741

SUPPLEMENT TO REPORT AND ORDER

(Adopted October 27, 1961)

BY THE COMMISSION: COMMISSIONERS LEE AND CROSS ABSENT.

1. The Commission, on September 14, 1961, released its report and order in the above-captioned docket concluding the clear-channel proceeding. Many inquiries have been received from applicants for new stations on frequencies adjacent (i.e., within 30 kc) to one of the 12 class I-A clear channels presently held in status quo. The Commission, on its own motion, has reconsidered the portion of the report and order (pars. 63-65) dealing with the "freeze" on such applications.<sup>1</sup>

2. We have determined that the overall objectives of the clear-channel decision and the public-interest considerations therein involved can be better served by certain modifications with regard to the treatment of applications for frequencies within 30 kc of one of the 12 unduplicated class I-A clear channels. In recognition of the equities and public benefits involved in processing applications for new stations on, or change of frequency to, one of those frequencies, and in an effort to simplify for all concerned the processing of such applications as will not hinder our future freedom of action with regard to the unduplicated clear channels, the Commission is amending its rules to accomplish the following: As to the 12 clear channels on which decision has been deferred—beginning October 30, 1961, applications will not be accepted for new stations on, for change of frequency to, or to increase power or operate during nighttime hours not previously authorized on a frequency within 30 kc of one of these 12 class I-A frequencies. Applications for such facilities filed prior

<sup>1</sup> The Commission has not yet had an opportunity to consider the numerous petitions for reconsideration filed in this docket, but will do so at a later date.

to October 30, 1961, will be studied in the light of their likely impact upon the possible future use of the unduplicated clear channels. From such study, it is contemplated that more precise engineering criteria might evolve which can then be applied in acting upon those applications now pending and announced as standards to govern the acceptance of future applications on these adjacent frequencies. This moratorium on applications does not apply where the facilities requested are in Hawaii, Alaska, Puerto Rico, or the Virgin Islands. Applications for other types of changes in facilities on these adjacent frequencies will be processed and acted upon in normal course.

3. The Commission adheres to its announced purpose of preserving freedom of action to determine the future use of the 12 class I-A unduplicated clear channels. At the same time, the action taken herein looks to the development of standards and procedures designed to minimize the impact of this decision upon the near-term use of the adjacent channels.

4. Accordingly, we are amending sections 1.351 (b) and (c) to incorporate the changes discussed above.

5. Authority for adoption of the rule changes herein is contained in sections 4 (i) and (j), 303, and 307(b) of the Communications Act of 1934, as amended. Section 4(a) of the Administrative Procedure Act exempts from the requirement of publication of general notice of proposed rulemaking "rules of agency organization, procedure, or practice." Because the rule changes herein are procedural, notice and public procedure thereon are unnecessary. Similarly, the effective date provision of section 4(c) of that act applies only to substantive rules (see also secs. 1.211(a) and 1.219(b) of our rules). The other rules changes occasioned by the clear-channel decision are to be effective October 30, 1961, and making the changes herein effective that same date will avoid confusion and the possibility of an interim period governed by different procedural rules. We find, therefore, that the public interest will be served by making the rules changes herein effective October 30, 1961.

6. In view of the foregoing, *It is ordered*, This 27th day of October 1961, that the introductory paragraph of section 1.351 and sections 1.351 (b) and (c) of the Commission's rules *Are further amended* as set forth in the appendix hereto effective October 30, 1961.

#### APPENDIX

In section 1.351, the introductory text and paragraph (b) are amended to read as set forth below and paragraph (c) is deleted:

§ 1.351 *Applications for frequencies adjacent to class I-A channels.*

Notwithstanding the provisions of any other rules of the Commission, all applications (regardless of when they were or may be filed) for frequencies located within 30 kc of a class I-A channel listed in § 3.25(a) of this chapter will be subject to the provisions of this section. The provisions of paragraph (a) of this section apply to the frequencies listed therein, which are within 30 kc of a class I-A channel on which an unlimited-time class II assignment is specifically provided for in § 3.22 or 3.25(a) of this chapter. The provisions of paragraph (b) of this section apply to the frequencies listed in paragraph (b) of this section, which are within 30 kc of the

remaining class I-A channels. Where a frequency is listed both in paragraphs (a) and (b) of this section, applications for facilities on such frequency are subject to the provisions and restrictions contained in both of said paragraphs.

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(b) (1) Until September 1, 1964, or such earlier date as may be announced, the provisions of this paragraph will apply to all applications for the following frequencies :

610, 620, 630, 680, 690, 710, 730, 790, 800, 810, 850, 860, 900, 1010, 1050, 1060, 1070, 1130, 1140, 1150, 1170, 1190, and 1220 kc.

(2) Applications will not be accepted on or after October 30, 1961, for new stations on, change of existing stations to, or for increase in power or operation during nighttime hours not previously authorized on, one of the designated frequencies.

(3) Applications of the type described in subparagraph (2) of this paragraph filed before October 30, 1961, will be studied in the light of the effect that grant thereof might have upon possible future uses of the class I-A channel or channels located within 30 kc of the frequency involved (e.g., authorization of power greater than 50 kw for class I-A stations, or additional unlimited time cochannel assignments). Processing rules will be adopted upon conclusion of such study.

(4) Applications for other changes in facilities on the designated frequencies will be processed and acted upon in normal course.

(5) Action will not be withheld under this paragraph on applications for facilities in Alaska, Hawaii, Puerto Rico, or the Virgin Islands.

31 F.C.C.