

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

WASHINGTON 25, D. C.

In the Matter of

Petition of clear-channel group for reconsideration of the Commission's policy with respect to licensing of stations on clear channels and channels adjacent to clear channels.

January 2, 1947

MEMORANDUM OPINION

This matter comes before the Commission on a petition filed by the clear-channel group on October 8, 1946, requesting the Commission to reconsider its policy with respect to the licensing of stations to operate on clear channels and on channels adjacent to clear channels.¹ Pursuant to this policy the Commission has dismissed all applications requesting permission to operate fulltime on any I-A channel or to operate on such channels with power in excess of 50 kilowatts. The Commission has also, pursuant to this policy, placed in the pending files all applications for daytime operation on a I-A channel where the proposed station is more than 750 miles from the dominant station using a nondirectional antenna or is beyond the 0.5 millivolt per meter 50 percent sky wave contour of the dominant class I-A station using a directional antenna on the frequency requested. Application for daytime operation on I-A stations within a lesser distance and all other applications are considered by the Commission on their merits.

The petition points out that under the foregoing policy the Commission has granted numerous applications for daytime operation on I-A channels and for stations on channels adjacent to I-A and I-B frequencies and that there are many such applications still pending before the Commission. The petition further points out that the order in the clear channel hearing (docket No. 6741) places in issue the possibility of a revision of the Commission's present rules limiting maximum power to 50 kilowatts. According to the petition the licensing daytime stations on I-A channels or the licensing of stations on channels adjacent to clear channels may have the effect of "making more difficult the grant of increased power to clear channel stations."

¹ On November 13, 1946 the Commission announced that it had denied the instant petition and that an opinion setting forth the Commission's reasons would be issued at a future date.

The Commission is of the opinion that a grant of the instant petition would not be in the public interest. If the petition were granted, it would mean that no action could be taken on any application for operation on the frequencies 610 kilocycles to 1590 kilocycles since all of these frequencies are either I-A channels or are adjacent (within 30 kilocycles) to I-A channels. The net result would be to preclude the Commission to a very large extent from exercising its licensing functions.

Nor is there any valid reason for withholding action on those applications requesting authority to operate on clear channels in accordance with the Commission's policy. These applications are consistent with the Commission's rules and regulations and fulfill a definite public need. Thus, a review of the Commission's records discloses that since October 8, 1945—the date on which the Commission resumed its normal licensing following the lifting of the wartime freeze—48 construction permits for new stations have been issued for daytime operation on I-A channels and 55 construction permits for new stations have been issued for operation on I-B channels, almost all of the latter being for daytime operation. Of these 103 construction permits which have been granted, more than half (53) have been in cities having no other standard broadcast station. With the difficulty of finding room in the standard broadcast band for additional stations, it is apparent that cities without any service or with inadequate service must rely to a very large extent on daytime stations which are licensed to operate on clear channels.

Moreover, a review of the applications for daytime operation on clear channels shows that many of these applicants are also desirous of entering FM broadcasting and are utilizing their daytime operation in helping them finance their operation during the transition period until FM becomes firmly established. In the Commission's opinion this assistance to the establishment of FM broadcasting is in the public interest and is an additional reason for denying the relief requested.

The denial of the petition of the clear channel group will not, in the Commission's opinion, adversely affect the outcome of the clear channel hearing. The Commission has already announced that no applications will be accepted for nighttime operation on a I-A channel until after the conclusion of the clear channel hearing; hence there is no possibility of any I-A channel being duplicated nighttime before the clear channel hearing is concluded.

So far as the possibilities of higher power are concerned, the Commission's present policy will not operate as a bar if the Commission determines to amend its rules and allow higher power. Applications for stations on I-A channels more than 750 miles from the dominant stations are placed in the pending files in accordance with the Commission's policy. Applications for stations within 750 miles of the dominant I-A

station must be designated for hearing if they involve interference to the normally protected contour of the I-A station. Hence, there is only a very limited area where daytime stations can be placed so far as I-A channels are concerned.

It is of course recognized that any increase in power of existing I-A stations or the relocation of such stations may result in interference to the normally protected contour of such stations from the new daytime stations, where none exists today. However, the same situation may arise with respect to existing stations. Problems of relocation are bound to be very difficult in any event. The addition of new stations may make it somewhat more difficult. However, when it is remembered that it will always be easier to find room for daytime stations than for fulltime stations, it should not by any means prove to be insuperable to find assignments for those daytime stations in existence at the conclusion of the clear channel hearing, if a reallocation proves to be necessary.

There remains the problem involved in possible sky-wave interference during the daytime. Under the present rules and regulations and standards of good engineering practice, no station is protected against sky-wave interference during the daytime. If the power of existing I-A stations is raised substantially, it may very well be that daytime sky-wave interference will become a problem that should be dealt with in the rules and regulations or standards of good engineering practice. However, it should be pointed out that this will be true for existing daytime stations as well as for new stations; the problem therefore is not created by the licensing of the new stations. Moreover, the clear channel hearing includes an issue concerning possible revision of the rules and regulations governing the hours of operation of daytime stations on clear channels. Under this issue all relevant evidence can be introduced by petitioner as well as other interested persons concerning daytime sky-wave interference and the desirability of revising Commission Rules for operation of daytime stations. Any grants that are made to daytime stations are subject to whatever changes in the rules may be made as a result of the clear channel hearing.

For the foregoing reasons the petition of the clear-channel group is denied.

11 F. C. C.