

SE-52

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

WASHINGTON, D.C. 20554

In the Matter of

Amendment of Section 3.293 of the Commission's Rules and Regulations relating to Subsidiary Communications Authorizations of FM Broadcast Stations.

REPORT AND ORDER

BY THE COMMISSION: COMMISSIONERS WEBSTER AND DOERFER
NOT PARTICIPATING.

1. The Commission has before it for consideration the petitions of 22 FM broadcast stations requesting amendment of section 3.293 of its rules and regulations to extend for a 1-year period the time during which FM broadcast stations may conduct functional music operations on a simplex basis.

2. The Commission amended its rules, effective July 1, 1955, to specify conditions under which FM broadcast stations would be permitted to provide functional music service such as background music, storecasting, transicasting, etc. (report and order (FCC 55-34) in docket No. 10832, issued March 22, 1955). In taking this action, the Commission concluded that although functional music operations were "predominantly non-broadcast in nature," they would be allowed as "an adjunct to the FM broadcast operation in order that the latter might draw financial sustenance from them." It was emphasized that functional music was a subsidiary service, allowed for the primary purpose of aiding the main undertaking—the broadcast service to the public. FM broadcasters desiring to furnish a functional music service must obtain a Subsidiary Communications Authorization (SCA).

3. In authorizing functional music operations by FM broadcasters, the Commission contemplated that as soon as feasible all such operations should be conducted on a multiplex basis under which the functional music programs would be transmitted on a subchannel simultaneously with the regular broadcast programs on the main channel. However, in light of the unavailability of multiplex equipment at that time, it was provided that functional music could be conducted on a simplex basis for the first year following the effective date of the new rules—or until July 1, 1956. After July 1 all functional music operations must be multiplexed.

4. The following FM broadcast stations holding SCA's for simplex operation have filed petitions with the Commission requesting that the date when all functional music operations must be multiplexed be postponed for at least 1 year:

ROBERT P. ADAMS (KUTE- FM) GLENDALE, CALIFORNIA	SUNDIAL BROADCASTING CORPORATION (KDFC) SAN FRANCISCO, CALIFORNIA
PROGRESS BROADCASTING COR- PORATION (WHOM-FM) NEW YORK, NEW YORK	WHBL, INC. (WHBL-FM) SHEBOYGAN, WISCONSIN
NORTH SHORE BROADCASTING COMPANY (WEAW-FM) EVANSTON, ILLINOIS	WM. PENN BROADCASTING COMPANY, INC. (WPEN-FM) PHILADELPHIA, PENNSYLVANIA
SILVER CITY CRYSTAL COMPANY (WMMW-FM) MERIDEN, CONNECTICUT	WWDC, INC. (WWDC-FM) WASHINGTON, D.C.
FUNCTIONAL MUSIC, INC. (WFMF) CHICAGO, ILLINOIS	MUSICAST, INCORPORATED LOS ANGELES, CALIFORNIA
MICHIGAN MUSIC COMPANY (WMUZ) DETROIT, MICHIGAN	WBFM, INC. (WBFM-FM) NEW YORK, NEW YORK
THE CAPITAL BROADCASTING COMPANY (WNAV-FM) ANNAPOLIS, MARYLAND	LINCOLN BROADCASTING COMPANY (WLDM-FM) DETROIT, MICHIGAN
RADIO KITE, INCORPORATED (KITE-FM) SAN ANTONIO, TEXAS	MOUNT MITCHELL BROADCAST- ERS, INCORPORATED (WMIT) CLINGMANS PEAK, NORTH CAROLINA
MUSIC UNLIMITED (KSON-FM) SAN DIEGO, CALIFORNIA	AGNES J. REEVES GREER (WKJF-FM) PITTSBURGH, PENNSYLVANIA
SANTA CLARA BROADCASTING (KSJO-FM) SAN JOSE, CALIFORNIA	KLEF BROADCASTERS (KQXR) BAKERSFIELD, CALIFORNIA
KING BROADCASTING COMPANY (KING-FM) SEATTLE, WASHINGTON	SEABOARD RADIO BROADCASTING CORP. (WIBG-FM) PHILADELPHIA, PENNSYLVANIA

5. The FM broadcast stations submit that satisfactory multi-plex equipment has not become generally available and that, consequently, unless they are permitted to continue to provide functional music service on a simplex basis after July 1st, they will be required to terminate their service. Detailed affidavits by engi-

neers and equipment manufacturers have been furnished indicating the present status in the development of multiplex equipment. The FM broadcasters represent that they will convert to multiplexing as soon as satisfactory equipment can be obtained and state that they expect that sufficient progress will have been made in the development and production of equipment to enable them to convert within 12 to 18 months.

6. In permitting functional music operations to be conducted on a simplex basis for a 1 year period, we believed that this would permit the immediate undertaking of functional music operations; allow those licensees who had invested in special equipment to realize some return; and insure an adequate period for development and manufacture of multiplex equipment at reasonable prices. The petitioners have indicated their desire and intention to convert to multiplexing as soon as such equipment does become generally available. It appears, however, that multiplex equipment is not yet generally available. We believe, therefore, that the public interest would be served by extending for a 1-year period the time during which functional music operations may be conducted on a simplex basis.

7. In light of the foregoing, we are amending section 3.293 of the rules to postpone the date for conversion to multiplexing to July 1, 1957. At the same time, we are extending all outstanding Subsidiary Communications Authorizations for simplexing to that date, but in no event beyond the expiration date of the outstanding license of the FM broadcast station holding the SCA.

8. Authority for the adoption of the amendment herein is contained in sections 4(i), 301, 303(b), (g) and (r) of the Communications Act of 1934, as amended. Since the amendment represents a relaxation of a rule, no prior notice of rulemaking is necessary.

9. *It is ordered*, That, effective June 29, 1956, section 3.293 of the Communication's rules and regulations is amended by changing the last parenthetical expression thereof to read as follows:

(Subsidiary Commission Authorizations on a simplex basis will be issued to expire July 1, 1957).

10. *It is further ordered*, That, effective July 1, 1956, all Subsidiary Communications Authorizations for simplex functional music operations are extended to July 1957, or the expiration date of the outstanding license of the FM broadcast stations holding the SCA, whichever is sooner.

Adopted June 13, 1956.

Released June 15, 1956.