

FCC 57-627
46040BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the Matter of
AMENDMENT OF SECTION 3.293 OF THE COM-
MISSION'S RULES AND REGULATIONS RE-
LATING TO SUBSIDIARY COMMUNICATIONS
AUTHORIZATIONS OF FM BROADCAST STA-
TIONS.

REPORT AND ORDER

BY THE COMMISSION: COMMISSIONER MACK NOT PARTICIPATING.

1. The Commission has before it for consideration the requests of some 20 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 continue to conduct functional music operations on a simplex basis.¹

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, transitecasting, etc. (report and order (FCC 55-340) [11 R.R. 1590] 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 is a subsidiary service, authorized 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

¹ The requesting stations are: Robert P. Adams (KUTE-FM) Glendale, Cal., Progress Broadcasting Corp., (WHOM-FM) New York, N.Y., North Shore Broadcasting Co., (WEAW-FM) Evanston, Ill., Silver City Crystal Co., (WMMW-FM) Meriden, Conn., Functional Music, Inc., (WFMF) Chicago, Ill., Michigan Music Co., (WMUZ) Detroit, Mich., The Capital Broadcasting Co., (WNAV-FM) Annapolis, Md., Radio KITE, Inc., San Antonio, Tex., Music Unlimited, (KSON-FM) San Diego, Cal., Continental Telecasting Corp., (KRRD-FM) Los Angeles, Cal., KMLA Broadcasting Corp., (KMLA) Los Angeles, Cal., WCAU, Inc., (WCAU-FM) Philadelphia, Pa., Sundial Broadcasting Corp., (KDFC) San Francisco, Cal., WHBL, Inc., (WHBL-FM) Sheboygan, Wis., William Penn Broadcasting Co., Inc., (WPEN-FM) Philadelphia, Pa., WWDC, Inc. (WWDC-FM) Washington, D.C., King Broadcasting Co., (KING-FM) Seattle, Washington., Lincoln Broadcasting Co., (WLDM-FM) Detroit, Mich., Mt. Mitchell Broadcasters, Inc., (WMIT) Clingmans Peak, N.C., FM Broadcasters (WPKM) Tampa, Fla., WBFM, Inc., (WBFM) New York, N.Y.

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. In a report and order released June 15, 1956 (FCC 56-552) [11 R.R. 1611] this date was extended to July 1, 1957.

4. In requesting that simplex operation be authorized for another year, the FM broadcast stations submit that satisfactory multiplex 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 1, they will be required to terminate their service. Detailed affidavits by engineers and equipment manufacturers have been furnished indicating the present status in the development of multiplex equipment. The broadcasters represent that they will convert to multiplexing as soon as satisfactory equipment can be obtained and submit that they expect that sufficient progress will have been made in the development and production of equipment to enable them to convert within a year.

5. While the Commission believes that all functional music operations should be conducted ultimately on a multiplex basis, such operations have been authorized on a simplex basis for an interim period in order that functional music operations by FM broadcast stations would be expedited; that licensees who had invested in special equipment would be able to realize some return; and that an adequate period for development and manufacture of multiplex equipment at reasonable prices would be afforded. The material furnished by petitioners indicates that multiplex equipment is not sufficiently available to require all FM stations presently engaged in simplex operations to switch to multiplexing at this time; and we believe, therefore, that the public interest would be served by extending the time during which existing SCA holders may continue to conduct functional music operations on a simplex basis. However, we feel that a 6-month extension will afford present SCA holders sufficient time to accomplish the change-over to multiplexing. Accordingly, we are amending the rules to provide that present SCA holders engaged in simplex operations may continue to do so for an additional 6-month period—until January 1, 1958.

6. Although we are extending the time for simplex operations, we wish to reaffirm our basic view that all functional music activities should be conducted on a multiplex basis as soon as possible. The petitioners note that progress has been made during the past year in the design and manufacture of transmitting equipment. As of May, 1957, 47 FM stations held outstanding authorizations for multiplex operations; and of these, 35 were either actually operating or were preparing to commence multiplex operations in the near future. Seventeen stations have submitted technical measurements indicating satisfactory multiplexing operations. We expect that no further extension for simplex operation will be necessary after January 1, 1958. Moreover, we do not believe that

the public interest would be served by authorizing new Subsidiary Communications Authorizations for simplex operations after July 1, 1957. Accordingly, new authorizations for SCA operations will be granted only for multiplexing.

7. In light of the foregoing, we are amending section 3.293 of the rules postponing to January 1, 1958, the date when existing SCA holders must convert to multiplexing. At the same time, we are extending all outstanding Subsidiary Communications Authorizations for simplexing to January 1, 1958 or to the expiration date of the outstanding license of the FM broadcast station holding the SCA, whichever is sooner.

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. The amendment constitutes a relaxation of a rule and prior notice of rulemaking is not necessary. The public interest, convenience and necessity would be served by making the amendment effective less than 30 days after publication.

Adopted June 13, 1957.

Released June 17, 1957.