

FCC 67-601

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

<p>In the Matter of AMENDMENT OF SECTIONS 73.253 AND 73.553 OF THE COMMISSION'S RULES AND REGULATIONS CONCERNING STEREOPHONIC AND SCA MOD- ULATION MONITORS</p>	}	RM-1138
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ORDER

(Adopted May 17, 1967)

BY THE COMMISSION : COMMISSIONERS BARTLEY AND LOEVINGER ABSENT.

1. The Commission has before it for consideration a petition for rulemaking (RM-1138) received April 19, 1967, from Arno M. Myer, doing business as Belar Electronics Laboratory (Belar).

2. By report and order in docket 15404 (3 FCC 2d 719, 1966) adopted May 25, 1966, sections 73.253(a) and 73.553(a) of the rules, among others, were amended to require the installation of type-approved stereophonic modulation monitors by FM broadcast stations engaging in this type of operation. To allow sufficient time for manufacturers of the equipment to obtain type approval and produce monitors, note 2 following these sections provided for the rule to become effective on June 1, 1967. Belar now requests that this date be changed to September 1, 1967.

3. Petitioner contends that in offering an add-on monitoring system that permits the FM broadcaster to use a monaural unit alone, or to use it together with a stereo adaptor or SCA adaptor, or to use all three together, a delay has resulted in the type-approval process. Further, if the date is not extended Belar claims that serious financial losses will be sustained as a result of cancellations of backlogged equipment sales orders.

4. Petitioner correctly points out that stereo monitors produced by the Collins Radio Co. and also McMartin Industries were type approved on or about March 22, 1967, as was the Belar monophonic monitor, model FMM-1, and that the Belar model FMS-1 stereo monitor is currently undergoing type-approval tests.

5. Supporting comments have been received from the licensees of stations WDVR, Philadelphia, Pa., WGMR-FM, Tyrone, Pa., WEND-FM, Ebensburg, Pa., WKBI-FM, Ridgeway, Pa., and from Bauer Electronics Corp. Comments in support were also received from the National Association of FM Broadcasters, Concert Network, Inc., and Triangle Publications, Inc.

6. Comments have also been received from McMartin Industries, Inc., of Omaha, Nebr. (McMartin), which company, as noted above, is one of two which have obtained type approval for a stereophonic modulation monitor. McMartin supports, in general, the change in

date from June 1 to September 1, 1967, but points out two problems which, we believe, merit serious consideration. First, McMartin correctly states that there is no assurance that Belar will be able to obtain type approval and deliver stereo monitors to its customers by September 1 or any date certain, so that the Commission could be faced with successive requests for extension until such time as Belar is able to supply a type-approved stereophonic modulation monitor. Second, although most FM broadcasters have committed themselves to purchase a monitor in order to meet the June 1 date, a substantial number have delayed ordering equipment in anticipation of approved delays. McMartin's solution to these problems is to extend the date from June 1 to September 1, 1967, only for those FM stations which have ordered a monitor which is type approved on or before June 1, 1967.

7. The difficulty with the McMartin proposal is that, insofar as it applies to Belar or any new manufacturer, even if type approval and delivery could be accomplished by September 1, 1967, the unit would not be acceptable because it was not type approved by June 1, 1967. We do agree, however, that steps must be taken to insure that all affected licensees commit themselves to order a monitor at an early date. We therefore affirm our intention to grant no further general postponements of the stereo modulation monitor requirement beyond September 1, 1967.

8. Although the Belar petition does not concern itself with the related question of type-approved SCA modulation monitors, we note that we have not, as yet, received in our laboratory any SCA monitors for type approval. Further, there have been informal representations to us of a need for clarification of the rules relating to type approval of SCA modulation monitors. Accordingly, it is obvious that additional time will be required and we are extending the date for installation of type-approved SCA modulation monitors to March 1, 1968.

9. Note 2 to section 73.253 also provides that the licensee of any FM broadcast station who purchased and installed a stereophonic or SCA modulation monitor prior to July 5, 1966, which meets in part the requirements of section 73.332 may continue to use such monitor until January 1, 1972. In the report and order we discussed the need and purpose of such a "grandfather" clause. Since release of the document questions have arisen concerning the models which we consider to be "grandfathered."

10. In paragraph 7 of our report and order in docket 15404, we made mention of monitors which were produced during the pendency of the rulemaking proceeding. These were the McMartin TBM-4000 for SCA operation and TBM-4500 for stereo; the RCA BW-73 for SCA operation and the BW-74 adaptor thereto for stereo; and the Collins 900C1 for stereo. These particular monitors meet in part the requirements for SCA or for stereo operation and, therefore, are acceptable if they were purchased and installed by July 5, 1966.

11. Inasmuch as the relief here requested is not substantive in nature, but rather looks only toward a postponement of the effective date of existing requirements, the notice and effective date provisions of section 4 of the Administrative Procedure Act do not apply.

Authority for the adoption of this amendment is contained in sections 4(i), 303 (e) and (r) of the Communications Act of 1934, as amended.

12. Accordingly, *It is ordered*, That the relief requested in the Belar petition *Is granted*.

13. *It is further ordered*, That, effective May 26, 1967, note 2 following sections 73.253(a) and 73.553(a) of the Commission's rules and regulations *Is amended*.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE, *Secretary*.

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