

WILKINSON ) BARKER ) KNAUER ) LLP

2300 N STREET, NW  
SUITE 700  
WASHINGTON, DC 20037  
TEL 202.783.4141  
FAX 202.783.5851  
WWW.WBKLaw.COM  
DAVID A. O'CONNOR  
MICHAEL D. SULLIVAN

December 23, 2013

**BY HAND**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 Twelfth Street, S.W.  
Washington, D.C. 20554  
*Attention: Audio Division, Media Bureau*

Re: Reply to "Comments on Reply to Response to Interference Complaint"  
W232CB, Frederick, MD, Facility ID No. 31140  
File Nos. BLFT-20130805ACZ, BPFT-20130807AAB,  
BSTA-20131216CYV

Dear Ms. Dortch:

On behalf of Red Zebra Broadcasting Licensee, LLC ("Red Zebra"), this letter is submitted in response to the December 20, 2013 "Comments" filed by AMFM Radio Licenses, LLC ("AMFM"), the licensee of FM translator station W232CB which is causing harmful interference to the direct reception of Red Zebra's co-channel station WWXX(FM). AMFM was afforded 30 days to resolve this issue. It did not meet its obligation to do so, nor has it provided the Audio Division or Red Zebra sufficient information to determine which, if any, of its complaining listeners were contacted by AMFM, when they were contacted, and what AMFM asked them in attempting to resolve the interference complaint.

Accordingly, as discussed in more detail below, the Audio Division should order W232CB to cease operations until the interference problem is resolved. Such an outcome is not a "Draconian solution," as AMFM claims; it is the appropriate solution when a secondary service fails to demonstrate on the record that it has resolved all complaints of interference, and it is the solution previously adopted by Commission staff under similar factual circumstances.

Marlene H. Dortch, Secretary  
December 23, 2013  
Page 2

*AMFM Has Not Met Its Obligations as Licensee of a Secondary Service as Set Forth in the Audio Division Letter.* On November 15, 2013, the Audio Division informed AMFM that “[p]ursuant to 47 C.F.R. § 74.1203, W232CB is required to eliminate *any* actual interference it causes” within 30 days.<sup>1</sup> AMFM’s most recent filing reaffirms, following its initial December 16, 2013 response, that it has failed to comply with the Audio Division’s directive.

Red Zebra has contacted listeners referenced in its complaint and has determined that the unlawful interference continues. Given AMFM’s cursory responses, however, it is impossible for Red Zebra to know which, if any, of its complaining listeners were contacted by AMFM, when they were contacted, and what AMFM asked them in attempting to resolve the interference complaint.<sup>2</sup> Indeed, in both its December 16 and December 20 filings, AMFM failed to provide any specifics or individual analysis of its attempts to contact each complainant, as required by Commission staff. The Audio Division Letter directed AMFM to “submit a detailed report” addressing each complaint individually, including the name and address of the complainant, specific devices receiving interference, and any assistance provided by AMFM for each device receiving interference. In response, AMFM failed to offer anything other than a general description of its efforts to resolve the interference through on-off tests, none of which was supported by a sworn declaration of a broadcast engineer. AMFM also tries to place the blame for the interference on some other, unknown station broadcasting on 94.3 MHz, again without any sworn declaration and without even bothering to listen to the other station’s identification at the top of the hour. Even if there were another source of interference (and Red Zebra has never experienced any interference to WWXX(FM) from another source prior to W232CB’s move to Germantown), that interference would not relieve AMFM of the duty to establish on the record that W232CB was not the source of additional impermissible interference to WWXX(FM).

*AMFM Has Been on Notice That Failure to Cure Any Interference May Result in Suspension of Translator Operations.* The Audio Division Letter explicitly reminded AMFM that the Commission’s rules “restrict FM translators to operate strictly on a secondary basis and limit their service” and that an FM translator station “will not be permitted to continue to operate if it causes any actual radio signal interference to the direct reception by the public of the off-the-air signals of any authorized broadcast station.” Because AMFM has failed to remedy the interference to a full-power, authorized radio station, it should not be permitted to continue to

---

<sup>1</sup> Letter from James D. Bradshaw, Deputy Chief, Audio Division, Media Bureau to AMFM Radio Licenses, LLC, at 2 (Nov. 15, 2013) (emphasis added) (“Audio Division Letter”).

<sup>2</sup> Red Zebra is aware of listeners who were included in the September 16, 2013 complaint and who, as of today’s date, are continuing to receive interference from W232CB to their off-air reception of WWXX(FM). AMFM clearly has not resolved all complaints of interference within the 30-day period as required.

Marlene H. Dortch, Secretary

December 23, 2013

Page 3

operate. Specifically, under the precedent of *Radio Power*,<sup>3</sup> AMFM should be directed to cease all operations on W232CB until it can establish on the record that it has resolved each and every listener complaint described in Red Zebra's September 16, 2013 interference complaint.

*The Audio Division Should Resolve This Issue Expeditiously to Avoid Continued Harm to Listeners.* Red Zebra has received numerous additional listener complaints since filing its first set of complaints in September. These include listener complaints within the past several days, when W232CB purportedly began operating at 25% of authorized power. Red Zebra is prepared to enter these complaints into the record, but wishes to avoid what *Radio Power* described as a "never-ending series of potential complaints" given the "proximity and power levels of these co-channel stations." Notwithstanding AMFM's attempt to style its most recent filing as "Comments," suggesting that the proceeding may be an ongoing discourse, the Audio Division has sufficient information now to order secondary service W232CB to cease operations.

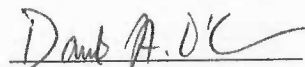
\* \* \* \* \*

Because the risk of continuous complaints is equally great here as in *Radio Power*, and because AMFM has failed to properly eliminate interference to WWXX(FM) and to document its efforts as required by Commission staff, W232CB should be directed to cease operations immediately.

Respectfully submitted,

WILKINSON BARKER KNAUER, LLP

By:



David A. O'Connor

Michael D. Sullivan

*Counsel for Red Zebra Broadcasting  
Licensee, LLC*

cc: Marissa G. Repp, Esq., Counsel for AMFM (via email)  
James D. Bradshaw, Deputy Chief, Audio Division, Media Bureau (via email)  
Robert Gates, Audio Division, Media Bureau (via email)  
Dale Bickel, Audio Division, Media Bureau (via email)

---

<sup>3</sup> *Radio Power, Inc.*, 26 FCC Rcd 14385, 14387 (MB 2011).