



Federal Communications Commission
Washington, D.C. 20554

January 2, 2020

In Reply Refer to:
1800B3-KV

Bott Communications, Inc.
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In Re: **K259CF, South Fresno, CA**
Gary M. Cocola
File No. BLFT-20180306AAR
Facility ID No. 144742

Interference Complaint – Response Required

Dear Counsel:

This letter refers to Bott Communications, Inc.'s (Bott or Complaining Station)¹ allegations of harmful interference caused by FM Translator K259CF, South Fresno, California (K259CF or Station).² As detailed below, Bott initiated this proceeding with an "Interference Complaint" (Complaint), filed on July 18, 2018; thereafter Bott filed a series of supplements and related filings to which Cocola responded.³

¹ Bott is the licensee of Station KCIV(FM), Mount Bullion, California (KCIV(FM)).

² K259CF is licensed to Gary M. Cocola (Cocola).

³ Specifically, the parties filed the following additional pleadings: (1) an "Interference Response" filed on September 10, 2018, by Cocola (Response); (2) a "Reply to Response of Gary M. Cocola to Interference Complaint and Supplement to Interference Complaint" filed on September 17, 2018, by Bott (Reply-First Supplement); (3) a "Request for Waiver" filed on September 10, 2018, by Cocola (Waiver Request); (4) an "Opposition to Request for Waiver" (Waiver Opposition) filed on a September 17, 2018, by Bott; (5) a "Reply to Opposition to Request for Waiver" filed on September 27, 2018, by Cocola (Waiver Reply); (6) a "Request for Expedited Consideration" filed on November 21, 2018, by Bott (Request); (7) a "Supplement to Interference Complaint" filed on November 21, 2018, by Bott (Second Supplement); and (8) an "Amended Second Supplement to Interference Complaint" filed on

Recently, the Commission adopted certain changes to the FCC's rules (Rules) relating to the translator interference complaint resolution process.⁴ In the *Translator Interference Order*, the Commission stated that all then remaining unadjudicated complaints would be decided under the new Rules once they became effective.⁵ On September 30, 2019, the Media Bureau, (Bureau) informed Bott that additional information was required to continue processing the Complaints.⁶

On October 30, 2019, in response to the *Bureau Letter*, Bott filed a "Third Supplement to Interference Complaint" (Third Supplement). In the Third Supplement, Bott states that per Table 1 of 47 CFR § 74.1203 of the Rules,⁷ it is required to submit a minimum of nine rule-compliant listener complaints.⁸ Bott has submitted 20 listener complaints which it claims comply with the current Rules.⁹

Based upon our review of Bott's Third Supplement, we conclude that Bott has submitted a valid and complete interference claim package. In particular, we find that Bott has exceeded its required showing of nine rule-compliant complaints with 12 rule-compliant complaints,¹⁰ along with the necessary engineering showings, for the following Third Supplement Listeners: the Molinas; Kuder; Armstrong; Berry; Jensen; Eld; Garcia; Medina; Davis; Reyes; Harden; and Wolfe.¹¹

Accordingly, Cocola is required to remediate the interference as set forth in the timeline below:¹²

November 26, 2018, by Bott (Amended Second Supplement). Collectively, the Complaint; Reply-First Supplement; Waiver Opposition; Second Supplement; and Amended Second Supplement will be referred to as the Complaints.

⁴ See *Amendment of Part 74 of the Commission's Rules Regarding FM Translator Interference*, Report and Order, 34 FCC Rcd 3457 (2019) (*Translator Interference Order*).

⁵ *Id.* at 3482 para 49.

⁶ See *Letter from James D. Bradshaw, Senior Deputy Chief, Audio Division, Media Bureau to Bott Communications, Inc.* (dated Sep. 30, 2019) (*Bureau Letter*).

⁷ 47 CFR § 74.1203.

⁸ Bott states that the population within KCIV(FM)'s 60dbu contour is 423,354. Third Supplement, Attachment B.

⁹ Specifically, the following listeners: Leon and Dianne Molina (the Molinas); Joshua Yrene (Yrene); Dixie Kuder (Kuder); Bruce F. Armstrong (Armstrong); Janet Hardy (Hardy); Kathleen Berry; (Berry); Linda M. Jensen (Jensen); Myra M. Smith (Smith); Sarah Eld (Eld); Stace Garcia (Garcia); Victoria Medina (Medina); Rudy Rojas (Rojas); David E. Combs (Combs); Robert Davis (Davis); Linda Dudley (Dudley); Karen Reyes (Reyes); Barbara Harden (Harden); Patricia Kibby (Kibby); Janean Wolfe (Wolfe); and Patti Cota (Cota). *Id.*, Attachment A. Collectively, these listeners will be referred to as the "Third Supplement Listeners."

¹⁰ A listener complaint is considered to have a clear, concise, and accurate interference location if at least one such location is provided. *Translator Interference Order*, 34 FCC Rcd at 3466, n.65. For example, if a listener complains of interference both at home and while driving downtown, then the complaint would be found acceptable based on the listener's home location (provided the address is listed in contact information) even though the driving location would not qualify.

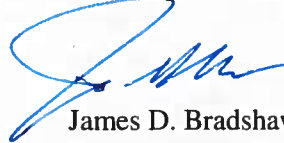
¹¹ Regarding the remaining Third Supplement Listeners' (Yrene, Hardy, Smith, Rojas, Combs, Dudley, Kirby and Cota) complaints, we find they lacked a clear, concise, and accurate interference location.

¹² See *Translator Interference Order*, 34 FCC Rcd at 3468-3469, para. 21 ("[T]he staff will direct the complainant station to serve the translator operator with a non-redacted copy of the relevant listener complaints so that the translator operator can verify the basic elements of the complaint, such as the existence of the complainant, current residence at the given address, etc."). Normally we would impose a requirement that Bott serve the complaints on Cocola, however, Bott has already served Cocola with the Third Supplement, thus rendering it unnecessary to impose that condition.

1. **Within thirty days of this letter**, Cocola must file:
 - a plan to resolve the interference;¹³ or
 - evidence that Bott's Third Supplement is not a valid and complete interference claim package.¹⁴
2. **Within sixty days of submitting a remediation plan**, if one has been submitted, Cocola must file either (i) the **jointly** agreed upon interference testing results; (ii) the testing results of the parties mutually agreed upon independent engineer; or (iii) the results from Cocola's remediation with the referenced Third Supplement Listeners¹⁵ if said listeners elect to participate in the remediation process. No unilateral testing results will be considered.¹⁶ Upon receipt, we will review said information to determine if the interference has been resolved.

We will withhold further action on the parties' filings during the interference remediation timeline as set forth above. Failure to comply with the remediation timeline may result in K259CF being ordered to cease operations.

Sincerely,



James D. Bradshaw
Senior Deputy Chief
Audio Division
Media Bureau

¹³ In the *Translator Interference Order*, the Commission declared that acceptable plans include: 1) relocating to an available same-band FM channel; 2) working with willing listener complainants; or 3) working with the complaining station. Regarding direct listener remediation, if the listener agrees to allow the translator station to adjust or replace its receiver equipment to address interference, the translator station "must document and certify that the desired station can now be heard on the listener's receiver. . . ." *Translator Order*, 34 FCC Rcd at 3472, para. 30. If, however, the listener's equipment is not the cause, or the listener declines to participate in the remediation process, then "the translator operator and the complaining station must work together to resolve the interference complaint using suitable techniques" *Id.* at 3473, para. 32. The "lack of interference can be demonstrated by on-off tests and/or field strength measurements at the relevant site, provided they take place in a manner *acceptable to both parties*." *Id.* at 3474, para. 33 (emphasis added). If, however, "the parties fail to agree upon appropriate methods and technical parameters to be used for interference testing at a particular site or sites, the parties should engage a mutually acceptable third party engineer to observe or carry out the testing." *Id.*

¹⁴ Cocola has "the burden of rebutting the presumption of validity of each complaint" *Id.* at 3468-3469, para. 21. In addition, the following activities are not evidence of an invalid listener complaint: "(1) social media connections [with the station] . . . ; (2) membership in listener clubs or participation in station-run promotions, contests, and events; (3) charitable donations to the station . . . and (4) time contributed volunteering at a station or at a station-run event, so long as the volunteer does not hold a regular position at the station comparable to a station employee." *Id.* at 3467, para. 19 (footnotes omitted). However, "advertisers are deemed to have a financial interest in the station, as are underwriters" *Id.*

¹⁵ Specifically, as noted *supra*, the following Third Supplement Listeners: the Molinas; Kuder; Armstrong; Berry; Jensen; Eld; Garcia; Medina; Davis; Reyes; Harden; and Wolfe.

¹⁶ The Commission opined that "[a]t any point in the process the parties may also agree that interference has been resolved using any mutually acceptable means; however, any contested data may not be unilaterally presented . . . as a remediation showing (or to dispute a remediation showing)." *Translator Interference Order*, 34 FCC Rcd at 3474, para. 33.