

2F623-mw

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D. C. 20554

JUL 28 2003

IN REPLY REFER TO:  
1800B3-VFA

RECEIVED & INSPECTED  
JUL 31 2003  
FCC - MAILROOM

Elizabeth A. Hammond, Esquire  
Drinker Biddle & Reath LLP  
1500 K Street, N.W.  
Suite 1100  
Washington, D. C. 20005-1209

In re: WVXH(FM), Harrison, MI  
Facility ID No. 15563  
Xavier University

Request for Waiver of § 73.1125  
(Main Studio Rule)

Dear Ms. Hammond:

This staff has under consideration the request of Xavier University ("Xavier") for a waiver of the Commission's main studio requirement, 47 C.F.R Section 73.1125, in order to operate WVXH(FM), Harrison, Michigan, as a satellite of its commonly owned, noncommercial, educational ("NCE") station WVXU(FM), Cincinnati, Ohio.<sup>1</sup>

Pursuant to Section 73.1125(a), a main studio must be located either (1) within a station's principal community of license contour, (2) within the contour of any other broadcast station licensed to its community, or (3) within 25 miles of the center of its community of license.<sup>2</sup> However, under Section 73.1125(b)(2), the Commission will waive these requirements where good cause exists to do so and where the proposed studio location would be consistent with operation of the station in the public interest. Each waiver request by an NCE station seeking to operate as the satellite of another NCE station is considered on a case-by-case basis. The Commission has recognized the benefits of centralized operations for NCE stations, given their limited funding, and thus found "good cause" exists to waive the main studio location requirement where satellite operations are proposed.<sup>3</sup> A satellite station must, however, demonstrate that it will meet

<sup>1</sup> A "satellite" station meets all of the Commission's technical rules. However, it originates no programming and instead rebroadcasts the parent station's programming. *See Amendment of Multiple Ownership Rules Memorandum Opinion and Order*, 3 RR2d 1554, 1562 (1964).

<sup>2</sup> *See Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations*, 13 FCC Rcd 15691 (1998); *recon. Granted in part*, 14 FCC Rcd 11113 (1999) ("Reconsideration Order").

<sup>3</sup> *Id.*

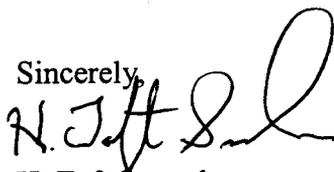
its local service obligation to satisfy the Section 73.1125 "public interest" standard.<sup>4</sup> Xavier states that as a noncommercial educational licensee, it has encountered difficulty in providing financial support for the main studios required by the Commission. Therefore, Xavier now seeks a waiver of C.F.R. Section 73.1125 in order to arrange its stations into a regional originating and satellite structure. Xavier's request is based on the economies of scale that would be realized by grant of its waiver.

Xavier proposes to operate WVXH(FM), Harrison, Michigan, as a satellite of station of WVXU(FM), Cincinnati, Ohio, approximately 341 miles from Harrison. Where there is a great distance between parent and satellite stations, as here, we are particularly concerned that the licensee takes adequate measures to maintain its awareness of and address the satellite community's needs and interests. To that end, Xavier has pledged to engage in a quarterly ascertainment of the community needs and interests of Manistee by: (1) adding to its Community Advisory Board at least one resident of Manistee who will be asked to provide recommendations on community needs and programming directly to the management of Xavier; (2) producing a half-hour program to be aired weekly on WVXH(FM) that covers issues of importance to northern Michigan; (3) providing periodic local programming for Harrison, including coverage of significant local news, the environment, topics relating to tourism and cultural events; (4) maintaining a duplicate public inspection file for WVXH(FM) in Harrison; and (5) maintaining a toll-free telephone number between Harrison, Michigan, and the WVXU(FM) main studio.

Under these circumstances, we are persuaded that Xavier will meet its local service obligation and thus, that grant of the requested waiver is consistent with the public interest. We remind Xavier, however, of the requirement that it maintain a public file for WVXH(FM) at the main studio of the "parent" station WVXU(FM). It must also make reasonable accommodation for listeners wishing to examine the file's contents.<sup>5</sup> We further remind Xavier that, notwithstanding the grant of waiver requested here, the public file for WVXH(FM) must contain the quarterly issues and programs list, as required by 47 C.F.R. Section 73.3527(e)(8).

Accordingly, the request for waiver of 47 C.F.R. Section 73.1125 filed by Xavier University IS HEREBY GRANTED.

Sincerely,



H. Taft Snowdon  
Supervisory Attorney  
Audio Division  
Media Bureau

<sup>4</sup> *Id.*

<sup>5</sup> *See Reconsideration Order*, 14 FCC Rcd at 11129.