



**Federal Communications Commission
Washington, D.C. 20554**

April 13, 2018

In Reply Refer to:
1800B3-PPD

Gary S. Smithwick, Esq.
Smithwick & Belendiuk, P.C.
5028 Wisconsin Avenue, N.W.
Suite 301
Washington, DC 20016

Dan J. Alpert, Esq.
2120 N. 21st Road
Arlington, VA 22201

In re: W228DF, Orlando, FL
File No. BLFT-20170320AAH
Facility ID No. 156373

Interference Complaint

Dear Counsel:

This refers to the interference complaint filed by Bible Broadcasting Network, Inc. (BBN) on June 28, 2017 (Complaint). The Complaint alleges that W228DF, licensed to Elohim Group Corporation (Elohim), is interfering with the reception of W228BK, Union Park, Florida. For the reasons set forth below, we dismiss the Complaint.

Background. In its Complaint, BBN includes complaints from four listeners.¹ On August 24, 2017, Staff requested Elohim to address the listener complaints.² In response to the *Staff Letter*, Elohim states that two complainants, Mr. Yi and Ms. Snyder, did not cooperate with remediation efforts.³ With respect to the third complainant, Elohim states Ms. Evans no longer wants to pursue the complaint.⁴ Regarding the final complainant, Elohim states there was no interference when it interviewed Ms. Watson

¹ Complaint at Attach. 2.

² Letter from James D. Bradshaw, Senior Deputy Chief, Audio Division, FCC Media Bureau, to Elohim Group Corporation at 1 (Aug. 24, 2017) (*Staff Letter*).

³ Letter from Dan J. Alpert, Counsel for Elohim Group Corporation, to Marlene Dortch, Secretary, FCC at 1-2 (Sept. 25, 2017).

⁴ *Id.* at 2.

and offered to return if Ms. Watson experienced interference in the future.⁵ BBN did not provide a response to the Opposition.

Discussion. Section 74.1203(a) provides, in pertinent part, that an FM translator station “will not be permitted to continue to operate if it causes any actual interference to...the direct reception by the public of off-the-air signals of any authorized broadcast station....”⁶ The rule places no geographic or temporal limitation on complaints, and we have long held that mobile receivers, such as automobile radios, should not be subject to interference resulting from the operation of an FM translator or booster station.⁷ The rule also specifies that signal strength is not a relevant factor.⁸

The Commission has interpreted “direct reception by the public” to limit actionable complaints to those that are made by *bona fide* listeners.⁹ The staff has routinely required a complainant to provide his name, address, location(s) at which FM translator interference occurs, and a statement that the complainant is, in fact, a listener of the affected station. Moreover, as is the case with other types of interference complaints,¹⁰ the staff has considered only those complaints of FM translator interference where the complainant cooperates in efforts to identify the source of interference and accepts reasonable corrective measures.¹¹ Accordingly, when the Commission concludes that a *bona fide* listener has made an actionable complaint of uncorrected interference from an FM translator, it will notify the station that “interference is being caused” and direct the station to discontinue operations.¹²

The issue before us is whether W228DF has failed to eliminate actual interference to co-channel station W228BK. Here, Elohim has contacted all four complainants. However, the complainants either did not cooperate with remediation efforts, did not want to pursue complaint, or did not experience interference. Thus, we have determined that Elohim has fulfilled its interference remediation obligations and dismiss BBN’s Complaint.¹³

⁵ *Id.* at 2-3.

⁶ 47 CFR § 74.1203(a).

⁷ See, e.g., *Forus FM Broad. of New York, Inc.*, 7 FCC Rcd 7880, 7882, para. 16 (MB 1992) (because of the secondary nature of FM booster stations, and the resulting requirement that they provide interference-free service, such stations will not be permitted to cause interference to mobile receivers).

⁸ 47 CFR § 74.1203(a)(3) (specifying that interference occurs “whenever reception of a regularly used signal is impaired ... regardless of the ... the strength of the signal so used”).

⁹ See *Association for Cmty. Educ., Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 12682, 12688, para. 16 (2004) (*Association for Cmty. Educ.*).

¹⁰ See, e.g., *Jay Ayer and Dan J. Alpert*, Letter Order, 23 FCC Rcd 1879, 1883 (MB 2008) (requiring complainants to cooperate fully with the station’s efforts to resolve interference and cautioning that the failure to do so could lead to a finding that the station has fulfilled its interference remediation obligations).

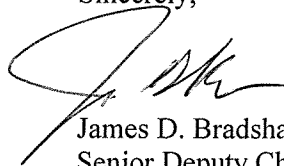
¹¹ See *Radio Power*, Letter Order, 26 FCC Rcd 14385-86 (MB 2011) (listing grounds that translator licensee claimed are sufficient to conclude that complainant has failed to reasonably cooperate and finding that a listener may reasonably reject a non-broadcast technology to resolve interference claim).

¹² See 47 CFR § 74.1203(e); see also *Amendment of Part 74 of the Commission’s Rules Concerning FM Translator Stations*, Report and Order, 5 FCC Rcd 7212, 7230, para. 131 (1990), *modified*, 6 FCC Rcd 2334 (1991), *recon. denied*, 8 FCC Rcd 5093 (1993); *Association for Cmty. Educ.*, 19 FCC Rcd at 12688, para. 15.

¹³ See *Joseph C. Chautin, III, Esq.*, Letter, 22 FCC Rcd 5364, 5364 (MB 2007) (actual translator interference is based on listener complaints indicating that the signal that the complainant regularly receives is being impaired by the signal radiated by the FM translator station).

Conclusion. Based on the above, IT IS ORDERED, that Bible Broadcasting Network, Inc.'s June 28, 2017, interference complaint is DISMISSED.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Bradshaw', written over the printed name.

James D. Bradshaw
Senior Deputy Chief
Audio Division
Media Bureau