



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

May 9, 2017

In Reply Refer to:
1800B3-PPD

Arohi Media LLC
110 Lattner Court
Suite 100A
Morrisville, NC 27650

In re: W252DK, Durham, NC
BLFT-20160818AAF
Facility ID No. 141386

Interference Complaint

Dear Permittee:

This letter refers to: (1) the above-referenced license to cover application filed by Arohi Media LLC (Arohi) for W252DK, Durham, North Carolina (License Application); (2) the August 22, 2016, Complaint and Informal Objection (Complaint) filed by Lakes Media, LLC (Lakes);¹ (3) the September 30, 2016, Response to Complaint and Informal Objection filed by Arohi (Response One); and (4) related responsive pleadings.² For the reasons set forth below, we grant the Complaint; dismiss the License Application; and require Arohi to immediately cease operation of W252DK.

Background. In its Complaint, Lakes alleges that W252DK is interfering with the reception of WLUS-FM, Clarksville, Virginia; requests that W252DK be ordered to cease operations; and requests that the License Application be denied.³ Lakes submitted numerous complaints from listeners, who

¹ Lakes submitted several Supplements to Complaint and Informal Objection on August 24, 2016 (Supplement One), August 31, 2016 (Supplement Two), September 8, 2016 (Supplement Three), September 12, 2016 (Supplement Four), and September 29, 2016 (Supplement Five).

² The following responsive pleadings were submitted: (1) Lakes submitted a Reply to Response to Complaint and Informal Objection on October 12, 2016 (October Reply); (2) Lakes submitted a Request for Expedited Action on November 1, 2016; (3) Lakes submitted a Further Supplement to Complaint and Informal Objection on December 19, 2016 (Supplement Six); (4) Arohi submitted a Letter to Supplement Record on January 24, 2017 (Arohi Letter); (5) Lakes submitted a Reply to the Arohi Letter on February 2, 2017 (February Reply); (6) Lakes submitted a Supplement to Complaint and Informal Objection on March 16, 2017 (Supplement Seven); (7) Arohi submitted a Report on Interference Complaints on March 24, 2017 (Arohi Report); (8) Arohi submitted a Motion for Extension of Time on March 24, 2017; (9) Lakes submitted a Supplement to Complaint and Informal Objection on April 6, 2017 (Supplement Eight); (10) Lakes submitted a Consolidated Opposition to Motion for Extension of Time and Report on April 10, 2017; and (11) Arohi submitted a Response to Supplements submitted by Lakes Media, LLC on April 18, 2017 (Response Two).

³ Complaint at 7.

complained of difficulties receiving WLUS-FM in their homes and in the nearby areas while driving.⁴ On September 30, 2016, Arohi addressed some of the complaints.⁵ On February 24, 2017, staff sent a letter to Arohi, noting that Arohi had attempted to address some of the listener complaints, but it had not addressed all of the listener complaints filed by Lakes.⁶ The *Staff Letter* asked Arohi to either resolve all of the complaints of interference within 30 days or to suspend W252DK's operations.⁷ Additionally, the *Staff Letter* asked Arohi to submit a detailed report addressing the complaints it had not yet addressed.⁸ The *Staff Letter* also noted that “[f]ailure to correct all complaints within this time may require W252DK to suspend operation pursuant to 47 CFR §§ 74.1203(e) and 74.1232(h).”⁹

There is much disagreement among the parties as to whether the complaints are valid and whether the complainants have cooperated with Arohi's efforts to address the interference. Arohi alleges that some of the complainants are not *bona fide* listeners, while other complaints are fraudulent.¹⁰ Arohi also claims many of the complainants did not provide specific information regarding the location of the interference.¹¹ Nonetheless, Arohi states it has contacted all the complainants.¹² According to Arohi, all of its efforts to contact the complainants either resulted in no response from the complainant, no cooperation from the complainant, or no contact with the complainant because the contact information was incorrect.¹³ Lakes disputes Arohi's assertion that the complainants would not cooperate for three of the complainants.¹⁴ Arohi insists that these complainants would not cooperate.¹⁵ In addition to these three disputed complaints, staff has identified three complaints for which Arohi has not provided any information regarding its efforts to remedy the interference.¹⁶

There is also much disagreement as to whether W252DK is causing interference to WLUS-FM's reception. Lakes has produced a voluminous record of alleged recordings of interference from

⁴ Complaint at Exh. Two; Supplement One at Attach. One; Supplement Two at Attach. Two; Supplement Three at Attach. One; Supplement Five at Attach. Two; Lakes Request at Attachs. Two and Three; and Supplement Seven at Attach. One.

⁵ Response One at Exh. 1.

⁶ Letter from James D. Bradshaw, Deputy Chief, Audio Division, FCC Media Bureau, to Arohi Media LLC (Feb. 24, 2017) (*Staff Letter*) at 2.

⁷ *Id.* at 2. See also, 47 CFR § 74.1203(b) (if interference cannot be properly eliminated by suitable techniques, the operation of the translator shall be suspended).

⁸ *Staff Letter* at 2.

⁹ *Id.* at 3.

¹⁰ Response One at 2-5; Arohi Letter at 2; and Response Two at 2.

¹¹ Response One at Exh. 1

¹² Response One at Exh. 1; Response Two at 2; and Arohi Report at 1-2.

¹³ Response One at Exhs. 1 and 1A; Arohi Letter at 2; Response Two at Attach. 1; and Arohi Report at Exh. 1.

¹⁴ Opposition at Exh. One. Specifically, according to Lakes, Terry Coleman has responded to several questionnaires, Wayne Rutledge expressed interference concerns during a phone conversation with Arohi, and Rick Chamblee was never contacted by Arohi.

¹⁵ Arohi Report at Exh. One. Arohi states that Terry Coleman did not respond to a request to update the questionnaire, Wayne Rutledge did not cooperate, and Rick Chamblee declined a visit from Arohi's engineer.

¹⁶ See Supplement Three at Attach. One (Listener Declarations of Clyde E. Jacobs, Amy S. Jacobs, and Charlene A. Minor).

W252DK,¹⁷ as well as engineering tests.¹⁸ On the other hand, Arohi relies on an engineering study to claim it is not possible for W252DK to be causing objectionable interference to WLUS-FM.¹⁹

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...”²⁰ The rule is interpreted very broadly in that it places no geographic or temporal limitation on complaints, and it has long held that even mobile receivers, such as automobile radios, should not be subject to interference resulting from the operation of an FM translator or booster station.²¹ The FM translator rules strictly prohibit interference by these secondary service stations, and an interfering FM translator station must remedy the interference or cease operation.²²

The Commission has interpreted “direct reception by the public” to limit actionable complaints to those that are made by *bona fide* listeners.²³ Thus, it has declined to credit claims of interference²⁴ or lack of interference²⁵ from station personnel involved in an interference dispute. More generally, the Commission requires that a complainant “be ‘disinterested,’ e.g., a person or entity without a legal stake in the outcome of the translator station licensing proceeding.”²⁶ 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,²⁷ 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.²⁸ Accordingly, when the Commission concludes that a *bona fide* listener has made an

¹⁷ See e.g., Complaint at Exh. Five; Supplement Four at Attach. One; and Supplement Five at Attachs. Three-Five; Supplement Seven at Attachs. 1-A, 1-B, 1-D through 1-K and 1-M.

¹⁸ Supplement Six at Attach. Two and Supplement Eight at Attach. Two.

¹⁹ Response One at Exh. 3.

²⁰ 47 CFR § 74.1203(a).

²¹ 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).

²² 47 CFR § 74.1203(b).

²³ See *Ass'n for Cmty. Educ., Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 12682, 12688, para. 16 (2004) (*Ass'n for Cmty. Educ.*).

²⁴ See *id.*

²⁵ See *Living Way Ministries, Inc.*, Memorandum Opinion and Order, 23 FCC Rcd 15070, 15077, n.46 (2008).

²⁶ *Ass'n for Cmty. Educ.*, 19 FCC Rcd at 12688 n.37.

²⁷ See, e.g., *Jay Ayer and Dan J. Alpert*, Letter, 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).

²⁸ See *Radio Power, Inc.*, Letter, 26 FCC Rcd 14385, 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).

actionable complaint²⁹ of uncorrected interference from an FM translator, it will notify the station that “interference is being caused” and direct the station to discontinue operations.³⁰

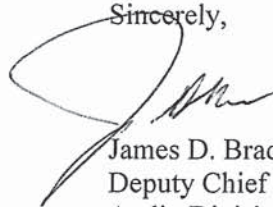
The issue before us is whether W252DK has failed to eliminate actual interference to co-channel station WLUS-FM, and whether to require Arohi to suspend W252DK’s operations. Although Arohi has alleged that some of the complainants are not *bona fide* listeners, are fraudulent, or have not cooperated in Arohi’s efforts to identify and resolve the interference, we do not need to resolve those allegations at this time. Arohi has failed to make an effort to resolve three complaints,³¹ submitted on September 8, 2016, by Lakes, and has had more than 30 days to do so. For this reason, we conclude that Arohi has failed to eliminate the interference to co-channel station WLUS-FM, and W252DK must suspend operations.

Conclusion. Based on the above, IT IS ORDERED, that Lakes Media, LLC’s August 22, 2016, Complaint and Informal Objection is GRANTED.

IT IS FURTHER ORDERED, pursuant to Sections 74.1203(e), 74.1232(h), and 0.283 of the Commission’s Rules,³² based on the above, Arohi Media LLC IS HEREBY ORDERED TO CEASE OPERATION OF W252DK IMMEDIATELY.

IT IS FURTHER ORDERED, pursuant to Section 73.3566(a)³³ of the Commission’s Rules that Arohi Media LLC’s pending License Application (BLFT-20160818AAF) for Station W252DK, Durham, North Carolina, IS DISMISSED.

Sincerely,



James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau

Cc: Christine McLaughlin (by email)
John C. Trent (by email)

²⁹ Because only a complaint from a *bona fide* listener of the desired station can force a translator station off the air, the audio and video recordings submitted by Lakes do not meet that criterion. *See, e.g., Ass’n for Cmty. Educ.*, 19 FCC Rcd at 12688, para. 16 (station’s engineer locating the points on a map where the translator had interfered with the stations’ signal as he drove around the full-service station’s coverage area listening to the car radio did not meet that criterion) and *Valley Broad., Inc.*, 7 FCC Rcd 4317, 4319, para. 26 (MB 1992) (tests for booster interference were conducted under Special Field Test Authority by a neutral party, using a mobile receiver and a stationary receiver. The application was granted with the *caveat* that if the booster station resulted in listener interference complaints, the permittee would be required to discontinue its operation until all complaints had been resolved).

³⁰ *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); *Ass’n for Cmty. Educ.*, 19 FCC Rcd at 12688, para. 15.

³¹ *See* Supplement Three at Attach. One (Listener Declarations of Clyde E. Jacobs, Amy S. Jacobs, and Charlene A. Minor).

³² 47 CFR §§ 74.1203(e), 74.1232(h), and 0.283.

³³ 47 CFR § 73.3566(a).