

**Before the
COPYRIGHT OFFICE
LIBRARY OF CONGRESS
Washington, D.C.**

**In the Matter of
Retransmission of Digital
Broadcast Signals Pursuant
to the Cable Statutory License**

Docket No. RM 2005-5

COMMENTS OF NATIONAL PUBLIC RADIO

National Public Radio, Inc. ("NPR") hereby submits its comments regarding the retransmission of digital broadcast signals pursuant to the cable statutory license in response to the Copyright Office's Notice of Proposed Rulemaking in the above-captioned proceeding. *See* Notice of Proposed Rulemaking, 73 Fed. Reg. 31399 (June 2, 2008) ("NPRM"). *See also* 73 Fed. Reg. 40203 (July 14, 2008) (extending the time for filing comments).

As the NPRM explains, in-band, on-channel ("IBOC") digital audio broadcasting ("DAB") allows an individual terrestrial radio station "to use their current radio spectrum to transmit AM and FM signals simultaneously with higher quality digital signals." NPRM, 73 Fed. Reg. at 31410. For purposes of this proceeding and otherwise, the most noteworthy feature of IBOC DAB is the ability of stations to multicast audio programming. *See id.* In that and many other respects, the transition to IBOC DAB mirrors the digital television ("DTV") transition.¹

¹ The principal difference between the DTV and DAB transitions is the absence of a statutory mandate for radio stations to convert to DAB. *See* NPRM, 73 Fed. Reg. at 3410. That difference has no bearing on the copyright issues raised in this proceeding.

NPR agrees with and supports the three conclusions reached in the NPRM regarding DAB. First, DAB is a "burgeoning new type of over-the-air radio service that warrants consideration [in this proceeding]." 73 Fed. Reg. at 31411. Of the approximately 14,000 commercial and noncommercial AM and FM stations licensed by the FCC,² there are already 1,742 HD Radio stations in operation across the country.³ These stations are broadcasting 2,633 digital radio channels.⁴ In the case of public radio stations alone, the Corporation for Public Broadcasting had awarded digital conversion grant funds to 644 stations through FY 2007, and more than 300 public radio stations have completed the conversion and are broadcasting digitally.⁵

Second, the NPRM concludes that "digital radio stations would be treated in the same manner as analog radio stations when retransmitted by cable operators in accordance with existing Office regulations." 73 Fed. Reg. at 31411. As NPR stated in its comments and reply comments on the Notice of Inquiry in this proceeding, the IBOC DAB transition represents an evolution of over-the-air radio broadcasting and, as such, fits within existing Copyright Office regulations for analog audio retransmission services.⁶

Third, and as a related matter, the Copyright Office would "not institut[e] a new regulatory framework for the carriage of digital radio signals in this proceeding." 73 Fed. Reg. at

² *Broadcast Station Totals as of December 31, 2007*, www.fcc.gov/mb/audio/totals/index.html.

³ www.iberiquity.com/hd_radio/hdradio_find_a_station (accessed July 30, 2008)

⁴ www.iberiquity.com/hd_radio/hdradio_find_a_station?state=SA (accessed July 30, 2008).

⁵ www.cpb.org/grants/110/update.html (accessed July 30, 2008)

⁶ Comments of National Public Radio, Docket No. RM 2005-5, at 2 (filed Nov. 6, 2006); Reply Comments of National Public Radio, Docket No. RM 2005-5, at 1 (filed Dec. 18, 2006).

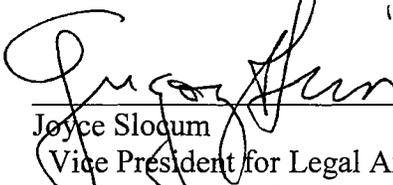
31411. According to the NPRM, should any novel questions arise in the future, the Copyright Office can address those questions in a future proceeding. *Id.* We agree. It is sufficient and appropriate for the Copyright Office to confirm that its rules continue to govern the cable retransmission of FM radio station analog broadcast signals, to clarify that the retransmission of radio stations transmitting digitally is covered by the Section 111 license, and to require the reporting of all retransmissions of analog and digital radio broadcast signals and the revenue associated with service tiers or equipment required to receive such services.

Conclusion

For the foregoing reasons and as set forth above, the Copyright Office should affirm its conclusions regarding IBOC DAB.

Respectfully submitted,

NATIONAL PUBLIC RADIO, INC.



Joyce Slocum
Vice President for Legal Affairs
General Counsel and Secretary

Michael Riksen
Vice President, Policy & Representation

Michael Starling
Chief Technology Officer and
Executive Director, NPR Labs

Julie M. Kearney
Director of Public Policy and Legislation

Gregory A. Lewis
Associate General Counsel

National Public Radio, Inc.
635 Massachusetts Avenue, N.W.
Washington, DC 20001
(202) 513-2040

July 31, 2008