

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Part 2 of the
Rules and Regulations to
Establish An Allocation in
the 220-225 MHz Band for the
Radio Reading Services

RM-5434

MEMORANDUM OPINION AND ORDER

Adopted: July 24, 1987

Released: August 24, 1987

By the Commission:

INTRODUCTION

1. By this action the Commission denies a petition filed by The Association of Radio Reading Services, Inc. (ARRS) seeking reconsideration of the Commission's *Order*, FCC 87-41, released February 20, 1987, declining to propose a spectrum allocation for radio reading services.¹ Specifically, the *Order* denied ARRS's Petition for Rule Making which sought the reallocation of 500 kHz of spectrum in the 220-225 MHz band on a primary basis for use nationwide by radio reading services.²

BACKGROUND

2. Radio reading services are currently offered principally via noncommercial FM subcarriers. In its Petition for Rule Making, filed on April 15, 1986, ARRS maintained that for several reasons growth and acceptance of radio reading services has been hampered. Chief among them was the unavailability of noncommercial FM subcarriers in many parts of the country, the cost of FM subcarrier receivers and technical impairments that result in poor reception.³ ARRS claimed that as a result of these drawbacks, only 150,000 of the approximately 2.5 million blind and print-handicapped population in this country presently utilize a radio reading service. ARRS asserted that these problems can be remedied with an allocation of 500 kHz (10 channels of 50 kHz) of spectrum in the 220-225 MHz band. In sum, ARRS stated that service could be offered anywhere in the country, receiver costs would be reduced significantly and the quality of reception would be much better.

3. The Commission's *Order* gave several reasons for denial of the petition. The Commission concluded that existing means for providing reading service are sufficient. Most major populated areas have one or more noncommercial FM subcarriers and ARRS had not provided any evidence to support its claim that reading services have been unable to obtain use of an FM subcarrier in many areas. Further, a growing number of outlets were expected to be available with the addition of new FM radio stations and potential use by radio reading services of alternative media outlets, such as main channel FM stations, TV second audio programs and cable systems. The Commis-

sion also pointed out that reading services are available by means other than radio, such as audio recordings of books and magazines. The Commission stated that the cost of 220 MHz receivers is likely to be as high or greater than FM subcarrier receivers of comparable quality and that ARRS had not taken into account the cost of establishing and maintaining its own stations. With regard to the issue of the sound quality of FM subcarriers, the Commission noted that FM subcarriers have been used for many years to provide background music as a subscription service and should therefore be capable of providing an acceptable signal. In light of these and other considerations, the Commission stated that the frequency band sought for use by ARRS is better used for other radio services.

4. In its Petition for Reconsideration, filed on March 23, 1987, ARRS states that the Commission's decision is not supported by the record. American Radio Relay League, Inc., (ARRL) filed an opposition to the Petition for Reconsideration supporting the Commission decision. The specific points raised by ARRS in its Petition for Reconsideration are discussed below.

DISCUSSION

5. ARRS disagrees with the Commission's finding that existing means for providing reading services are sufficient. ARRS states that it has provided documentation indicating an enormous current shortfall in needed reading services. Nine states, and 177 of the 290 largest Standard Metropolitan Statistical Areas, are currently without any radio reading service, according to ARRS. ARRS asserts that 95% of the blind and print-handicapped population in this country have no access to a radio reading service. ARRS states that while several noncommercial FM stations may be present in an area, they are under no obligation to make a subcarrier available for a radio reading service.⁴ Out of concern about degradation of the main channel signal, these stations often decide not to offer subcarrier service, according to ARRS.

6. We have carefully reviewed the record. While we recognize that many major urban areas are without a radio reading service, we do not accept ARRS's contention that the principal reason is the unavailability of noncommercial FM subcarriers. As an initial matter, we note that ARRS offers no support for its claim. Further, since there are between two and four noncommercial FM stations in several of the areas where no reading service is offered, it does not seem plausible that all these stations have declined to negotiate use of a subcarrier for radio reading services. In addition, ARRS acknowledges that funding difficulties have played a role in the failure of radio reading services to proliferate and it is possible that the lack of service in certain areas may be due to the unavailability of needed resources.

7. The existing base of radio reading services distributed by FM subcarriers is substantial. There are approximately 140 FM stations offering radio reading service on a subcarrier. We note that 42 of the top 50 Standard Metropolitan Statistical Areas are served by a radio reading service offered over an FM subcarrier.⁵ ARRS's statement that 95 percent of the blind and print-handicapped population has no access to a radio reading service does not appear accurate. The 95 percent figure appears actually to be the portion of the blind and print-handicapped that has not obtained service, not the portion that is outside the service area of a station offering radio reading service.⁶ While

ARRS argues that noncommercial FM subcarriers are not available, information it submitted shows that in 1985 radio reading services were initiated on the subcarriers of eleven FM stations.⁷ In 1986, up until the time when the Petition for Rule Making was filed on April 15, 1986, radio reading services were initiated on an additional eleven stations.⁸ We conclude that noncommercial FM subcarriers are indeed available and believe that growth can continue.

8. ARRS asserts that, contrary to the Commission's *Order*, the expected future increase in the number of FM broadcast stations does not hold promise for improved availability of FM subcarriers for radio reading services. ARRS points out that the Commission's estimate of 1200 new FM stations being created in the next few years is high, noting that the Docket 80-90 proceeding cited in the Commission's *Order* created only 689 drop-in FM allotments.⁹ ARRS maintains that all of these allotments are for commercial stations. Further, ARRS states that future stations cannot meet the great demand that exists now. While ARRS is correct that Docket 80-90 created 689 allotments, we point out that 150 to 200 new communities are normally added to the FM table of allotments each year. We therefore believe that 1200 new FM stations is a reasonable estimate of the growth of the FM radio service in the near future. Although Docket 80-90 did not allocate specific channels for noncommercial FM stations, such stations are free to apply for any available channel. On the matter of the immediacy of the stated need, as pointed out above, noncommercial FM stations already exist in many areas.

9. ARRS also disagrees with the Commission's assertion that alternatives to use of noncommercial FM subcarriers exist. According to ARRS, use of main channel AM and FM stations is impractical due to the high cost. ARRS states that TV second audio program (SAP) channels of television stations are not a viable alternative because they are now, and will in the future be, devoted primarily to foreign language audio transmissions, in keeping with the purpose of the authorization of the SAP channel. ARRS notes that one radio reading service currently operates a national reading service available by satellite and carried on some cable systems. ARRS maintains, however, that many print-handicapped persons cannot afford cable service, that cable service is not available in many areas and that items of local interest, such as local newspapers, are not covered. Additionally, ARRS believes that reading of mature subject matter over main channel AM and FM stations, TV SAPs and cable systems would be restricted. With regard to the Commission's statement that reading services are available by means other than radio, such as audio recordings of books and magazines, ARRS states that most books and magazines are not available in the alternative sources. ARRS asserts that the Commission has ignored the most important service performed by radio reading services, which is the reading of local daily newspapers. Daily newspapers are not available in recorded form.

10. We believe that the magnitude of the problems associated with alternative means of providing reading services is overstated. Some radio reading services are indeed operating on the main channel of FM stations, on TV SAPs and on cable systems. Although reading services offered by these other means are currently few in number, it would seem that such approaches can be pursued further. Cable systems, for example, are capable of carrying

many audio channels and it seems reasonable that they would present opportunities for reading services. While ARRS has expressed concerns about limitations on the reading of mature subject matter over the main channel of FM stations, TV SAPs and cable systems, it appears that only a small fraction of current radio reading service programming, if any, may fall into this category. A survey of radio reading service listeners indicates they utilize recorded materials, personal readers, braille and other sources to satisfy much of their reading needs.¹⁰ Although ARRS emphasizes that the reading of daily newspapers is a vital feature of radio reading services, we point out that local news is available from a variety of sources, and in fact only 32% of the listeners list reading services as their primary source of news and information.¹¹ Thus, we believe that alternative means of providing reading services are available and can meet the needs for service.

11. ARRS maintains that an adequate explanation was not offered for the Commission's conclusion that costs at 220 MHz would be as much or greater than for FM subcarriers. ARRS states that it provided a full cost analysis and that the Commission did not give sufficient weight to the fact that ARRS had been quoted a price of \$25 for a 220 MHz receiver as compared to the \$75 to \$100 cost typical of existing FM subcarrier receivers. Our evaluation of the record did not convince us that costs for a 220 MHz receivers would be lower. For example ARRS had also stated that the \$25 quote was for a "basic" receiver and that receivers of a better quality would cost up to \$40 to \$50.¹² Amateurs, who currently operate in the 220 MHz region, stated that based on their technical knowledge the ARRS estimates appear to be low. Also, we note that ARRS's cost analysis of factors other than receiver costs is based on very rough estimates. While ARRS estimates that these costs will be about the same as for use of a subcarrier, it appears that this projection is incomplete and optimistic. For example, ARRS assumes that it will be able to mount transmitter antennas on existing broadcast station towers; no accounting is made for the method and cost of delivering signals to the transmitter site; no provision is made for back-up transmitter equipment or for electrical power generation that may be needed during outages; and, costs of establishing and maintaining a suitable studio are likely to be more than the rental of facilities at an existing broadcast station. We find therefore that ARRS has not made a convincing showing that costs would indeed be significantly less. However, even if costs were lower, this alone does not warrant an exclusive allocation of spectrum when alternative means of providing service are available.¹³

12. ARRS notes that on January 30, 1987, the Commission issued a *Notice of Proposed Rule Making* in General Docket 87-14, proposing reallocations in the 216-225 MHz band.¹⁴ ARRS states that the Commission could have conveniently considered the ARRS request in that proceeding. In its Petition for Reconsideration ARRS requests that the Commission issue a Further Notice of Proposed Rule Making in General Docket 87-14 to include the ARRS proposal. The Commission must evaluate each petition on its merits and is not obligated to issue a proposal simply because a petition has been filed. In the case of the ARRS petition, we are convinced that there are existing sufficient means for providing reading services both by radio and by alternative methods. In fact, use of FM subcarriers, TV SAPs and other methods are spectrum efficient ways to provide radio reading services because

they take advantage of services already in place without utilizing additional spectrum. Accordingly, we decline to issue a proposal as suggested by ARRS.

13. In conclusion, we find that ARRS has brought forward no new information that warrants modification of the decision in the *Order*. For the reasons given in the foregoing discussion, IT IS ORDERED That the ARRS Petition for Reconsideration, IS DENIED.

14. For further information concerning this *Order*, contact Mr. Raymond LaForge, Office of Engineering and Technology, telephone (202) 653-8155.

FEDERAL COMMUNICATIONS COMMISSION

William J. Tricarico
Secretary

FOOTNOTES

¹ See *Order*, FCC 84-41, 2 FCC Rcd 1 1146 (1987).

² The 220-225 MHz band is currently allocated to the amateur, fixed and mobile radio services on a coprimary basis. The Commission recently issued a proposal to reallocate spectrum in the 216-225 MHz band. See *Notice of Proposed Rule Making* in Gen. Docket No. 87-14, 52 FR 6024 (February 27, 1987). Under this proposal, the 220-222 MHz band would be allocated to the land mobile service, the 222-225 MHz band would be allocated to the amateur radio service and the allocation for the fixed service in the 220-225 MHz band would be deleted.

³ ARRS, in its Petition for Rule Making, stated that its ability to obtain use of a subcarrier on noncommercial stations has been difficult despite the Commission's decision in the *Report and Order* in BC Docket No. 82-1, 48 FR 26608 (June 3, 1983), as corrected, 48 FR 29872, which permitted FM noncommercial educational stations to use their subcarriers for remunerative activities provided they ensured that neither existing nor potential radio reading services for the blind are diminished in quantity or quality. The Commission stated that a station utilizing one of its subcarriers for commercial purposes would be obliged to accommodate radio reading services on another subchannel. Despite our policy to promote radio reading services in this earlier proceeding, ARRS alleges that the rule has not been the incentive the Commission intended it to be. The Commission recently issued *Memorandum Opinion and Order and Notice of Inquiry* in response to a separate Petition for Rule Making filed by ARRS, RM-5509, in which it expressed this concern and sought improved access to FM subcarriers. The Commission saw the cost issue as the only unresolved matter. The Commission said in order to determine whether costs imposed by public radio stations are fair, that is, charged on a not-for-profit basis as required by the Commission, an inquiry appears necessary. See *Memorandum Opinion and Order* in MM Docket No. 87-9, FCC 87-30, adopted January 16, 1987.

⁴ See note 3, *supra*.

⁵ See ARRS Petition for Rule Making, at pages 53-59.

⁶ It appears from the information filed by ARRS that the normal practice of radio reading services is to purchase receivers and distribute them to listeners. ARRS has apparently divided the number of receivers that have been distributed (approximately 150,000) by the estimate of the blind and print-handicapped

population (2.64 million was the figure cited in the Petition for Rule Making) to arrive at the figure that 5% of the blind and print-handicapped are served and hence that 95% are unserved.

⁷ See ARRS Petition for Rule Making, at pages 30-32.

⁸ FM stations are not required to report information to the Commission on broadcast use of subcarriers. Therefore, the only information available to the Commission on the use of FM subcarriers for radio reading services is that submitted by ARRS.

⁹ See *Report and Order* in Gen. Docket No. 80-90, 48 Fed. Reg. 29486 (May 26, 1983). See also the *First Report and Order* in MM Docket No. 84- 231, 50 Fed. Reg. 3514 (January 26, 1985), which allocated 689 channels to communities using weighing factors that included the need for a public radio station. Docket 80-90 developed the technical methodology and Docket 84-231 actually resulted in the selection of the communities. Docket 84-231 is often called the Omnibus Rule Making.

¹⁰ See National Study of Radio Reading and Information Service Listening, Results from Survey of 506 Listeners at 45 Reading Services, by John C. DeWitt and Jay D. Leventhal, 1985. This study was conducted by the American Foundation for the Blind on behalf of the National Library Service.

¹¹ *Ibid* at page 38.

¹² See ARRS Reply Comments at page 4.

¹³ The matter of costs of FM subcarriers for radio reading services is being examined in a separate proceeding. See note 3, *supra*.

¹⁴ See note 2, *supra*.