

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the Matter of AMENDMENT OF SUBPART C OF PART 73, NON- COMMERCIAL EDUCATIONAL FM BROADCAST STATIONS TO PROVIDE FOR A NATIONAL SYM- PHONY NETWORK	}	RM-881
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MEMORANDUM OPINION AND ORDER

(Adopted November 9, 1966)

BY THE COMMISSION.

1. The Commission has before it for consideration a petition filed on November 8, 1965, and amended on July 7, 1966, by Symphony Network Association, Inc. (Symphony), requesting rulemaking looking toward the reservation, for a period of 3 years, of 94 specific assignments in the noncommercial educational FM broadcast band (channels 201-220, 88.1-91.9 Mc/s) for a nationwide National Symphony Network.¹

2. The proposal is, in brief, the reservation of educational FM assignments in 94 communities throughout the United States (including 6 in Alaska and Hawaii) for the purpose of creating a nationwide National Symphony Network designed "to bring the class appeal of great music to mass appeal." This network would be of stations individually owned, primarily by local symphony orchestras and possibly others, with the Symphony Network Association, located in Birmingham, Ala., providing the broadcast services for the network, and acting as the advertising agency which "takes a product and merchandises it."

3. Petitioner urges that a national network is necessary because the audience which listens to an FM classical music station is approximately 2 percent and, since 2 percent of most markets is an inadequate listener base for advertising, a nationwide network commanding 2 percent of the audience nationally is the answer. Such an audience, Symphony argues, would give a broad sales potential for qualified national sponsors. As to sponsoring such programs, it suggests the magazine concept of advertising, with 18 national sponsors per day, 1 per hour, and with each sponsor's time rotated 1 hour every day. It envisions national sponsors which have backed quality programs in the past. The net revenue of the funds so raised would be returned to the local symphony orchestra's budget, or that of the college or edu-

¹ The list of locations in which reservations are requested is shown in the attached appendix.

cational institution in the event the licensee is not a local nonprofit symphony musicians association or symphony orchestra organization.²

4. Symphony contends that the educational broadcasters have failed to use radio as an efficient, effective universal communications medium, because it endeavors to stimulate the listener by an intellectual appeal, while what is needed is the emotional appeal, used so effectively by the commercial broadcaster. It contends that only through such an appeal can classical music increase the popular enjoyment and understanding. While it does not intend to replace or oppose the existing educational broadcasting system, Symphony states that it intends to supplement existing efforts "in hopes to show education a better and more effective means of communications."

5. The National Association of Educational Broadcasters (NAEB) and three individual educational stations (WGLS-FM, Glassboro, N.J., KSDA, La Sierra, Calif., and WSOU, South Orange, N.J.) filed statements in opposition to the Symphony petition.³ These parties submit that the noncommercial educational FM band is allocated for use by nonprofit educational organizations for the transmission of programs to specific schools and such stations may also transmit educational, cultural, and entertainment programs to the general public but that the subject proposal would be inconsistent with the requirements and objectives of these rules. They contend that the scarce frequencies are being used at a higher rate than ever before and that, therefore, these scarce frequencies should not be diverted from their primary comprehensive use for programing all aspects of education, instruction, culture, and entertainment. Other contentions advanced against the proposal are that most metropolitan markets are already served with classical music, the assignments for this purpose would have a detrimental effect on educational FM stations, that educational programing should include much more than classical music, and that there are enough programs of the nature proposed to satisfy the needs of the 2 percent who are attracted to it. NAEB notes that in its amendment of July 7, 1966, Symphony states that "for the present, all advertising on these educational FM frequencies in the Symphony Network be deleted." However, the proposal was based upon advertising for needed revenues but that no alternative source of financing is proposed by petitioner. NAEB further states that it is as concerned about the financial difficulties of educational radio services as is the petitioner and suggests that educators, the Commission, and even Congress may have to take a new look at forms of underwriting educational radio and television service, but that this should not be resolved in the limited context as that presented by the subject petition. NAEB further points out that a similar petition was previously denied by the Commission in *George E. Remp*, 14 R.R. 657, 658 (1956). In reply to these oppositions Symphony urges that it is interested in all the problems facing educational radio: Communication efficiency, organizational efficiency, and money. It states that educational radio will constantly flounder until these problems are resolved and that

² In its amendment of July 7, 1966, Symphony requests an amendment of its original petition to the effect that, "for the present, all advertising on these educational FM frequencies in the Symphony Network petition be deleted."

³ The NAEB opposition and Symphony's reply were filed late but are being considered under the circumstances presented herein.

the "selling" of fine music to the American public through an FM network will pave the way for greater effectiveness of present educational broadcasting facilities.

6. The Symphony Network Association proposal would, in effect, carve out from the FM band now reserved for noncommercial educational stations a number of frequencies for the exclusive use of symphony orchestras. The proposal lacks merit for a number of reasons which are outlined below:

(a) The type of service contemplated is presently provided on many commercial and noncommercial FM stations. Almost every large city has at least one, and in many cases more than one, station providing symphonic music. As a matter of fact many of the educational noncommercial radio stations in the reserved band carry a preponderance of symphony programs.

(b) The noncommercial educational radio stations are growing at a fairly rapid rate. In many areas there is already a shortage of reserved channels. The reservation of a substantial number of channels for this proposed narrower use may seriously handicap the development of a full educational radio service which would provide, in addition to symphonic music, other cultural entertainment as well as instructional, children's, discussion, and news programs. We are not convinced that we have set aside too many channels for broader educational use and that we can, therefore, afford to take some of these channels and restrict them to a narrower usage.

(c) Assuming, for the sake of argument, that we may have more than enough channels for broader educational use, we must then consider whether it would be appropriate to preempt some of these spaces for the limited service here proposed or whether that space should be reserved for other limited services, such as all-discussion, all-foreign language, or all-college sports for which there may be equal or greater need. It would not appear to us to be desirable to carve out pockets within the reserved band for a variety of limited services. A bona fide organization which can qualify as an applicant for a reserved FM frequency and which has a limited program objective can apply for an FM frequency and it will be given consideration under our present rules. Whether its application would be successful would depend upon the services already available in the community and upon whether there were any competing proposals for the frequency applied for. There does not appear to be any valid reason for the Commission to unnecessarily restrict the use to which certain frequencies may be put.

(d) In any event, the proposal appears to be impractical. No reservations are proposed in any really large cities for the reason that no frequencies are available in such cities. Reservations are proposed in a number of medium-sized and small communities. The communities in which reservations are proposed account for only approximately 12 percent of total radio broadcast revenues. The audiences which stations in these communities could reach would account for a similar proportion of the total population in the country. The prospect of a national network without affiliated stations in major cities appears to be totally unrealistic.

7. In summary, to adopt this proposal would result in tying up spectrum space for a limited use with little likelihood that, realistically, it could ever be so used. Furthermore, it has not been demonstrated that we have sufficient space within the reserved band to adopt this proposal without endangering the development of broader educational, noncommercial radio. There are at present over 300 stations in the educational FM band and an additional 15 educational stations in the commercial FM band. Applications are being filed for additional stations at an accelerated rate.

8. With respect to the technical aspects of the Symphony proposal, an analysis of the proposal based on its computer study reveals that it could not meet the objectives of the petitioner; i.e., nationwide

coverage of the entire area and population of the country and that it would have a very severe adverse impact on the potential use of the band by educational FM stations. While the plan does reserve class B or C assignments in 89 communities and class A assignments in 5 others, no assignments were apparently feasible in 11 States (mostly in the heavily populated Northeast). A breakdown of the assignments is as follows:

11 States have 0 assignment, 12 States have 1 assignment, 14 States have 2 assignments, 8 States have 3 assignments, 2 States have 4 assignments, 1 State has 5 assignments, 2 States have 8 assignments.

Several of the communities selected are small and far removed from centers of population. Among these are Gaylord, Mich., Kosciusko, Miss., and Morro Bay, Calif. In the 12 States in which only 1 assignment is possible, coverage of the State is not possible, even with stations using class C facilities. Thus, it would not be technically possible to reach all the country with its network signal, an objective stated by petitioner to be of great significance to its proposal. In spite of the contention that at least 2 percent of the national audience is necessary to make the network a financial success, 46 of the 94 selected cities have less than 30,000 population and 25 of them have less than 10,000. Some of these are not far from large cities and are listed presumably since the assignment could not go into the big city, but others are far removed from such cities. It is recognized that additional assignments are possible in some portions of the country.

9. As to the impact on the availability of educational FM channels for the regular noncommercial educational FM broadcast station, petitioner shows that other assignments are available in 82 percent of the communities selected for the Symphony Network either on a class B/C or class A basis. However, in the following 17 communities the proposal eliminates the last available assignment for educational use:

Denton, Tex.....	Has none at present
El Reno, Okla.....	Has none at present
Salt Lake City, Utah.....	Has one class C
Greensboro, N.C.....	Has one 10 w
Charlottesville, Va.....	Has one 10 w
Latrobe, Pa.....	Has none at present
Essex, N.Y.....	Has none at present
Elmira, N.Y.....	Has one 10 w
Chautauqua, N.Y.....	Has none at present
Decatur, Ill.....	Has none at present
Nekoosa, Wis.....	Has none at present
Sacramento, Calif.....	Has one 10 w
Monterey, Calif.....	Has none at present
Santa Barbara, Calif.....	Has one 10 w
Salem, Ore.....	Has none at present
Newton, Iowa.....	Has none at present
Davenport, Iowa.....	Has none at present

10. In making assignments to the selected 94 communities, petitioner takes into account all existing educational stations in the band 88.1 to 91.9 Mc/s and the first three commercial channels 221-223, as well as applications as of May 31, 1966, but without regard to the future

needs of educational interests in other communities.⁴ Thus, the proposed plan will probably preclude the possibility of making future assignments in many cities and communities throughout the country whether on a protected contour basis or with an assignment plan. This is evident from the list of precluded communities as outlined in paragraph 9 above.⁵ The Symphony assignment plan does not appear to be a complete one, especially in portions of the Far West, but to the extent that additional assignments were to be requested, the impact on the regular educational FM stations would be that much greater.

11. In summary we find that the Symphony Network is not proposing a new service, but rather one which emphasizes classical music to the exclusion of other forms of education and entertainment; that if the situation permits, commercial sponsorship would be sought, thus negating the noncommercial nature of the educational FM broadcast service, and that the proposal does not appear to be technically feasible or at best would seriously prevent the growth of educational FM in many communities in the future. Thus, while we agree that the objective of providing classical music to all the people of the country is an admirable objective, the cost in terms of the educational FM service in general would be too great and, therefore, the subject proposal should be denied.

12. In view of the foregoing, *It is ordered*, That the petition of Symphony Network Association, Inc., RM-881, *Is denied*.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE, *Secretary*.

⁴ We are this date issuing a notice of inquiry in docket No. 14185 inviting comments on the philosophy of a nationwide Table of Assignments for use by noncommercial educational FM broadcast stations, and other pertinent technical rules, in order to provide for the orderly and efficient expansion of this important radio service.

⁵ The results of the proposal are somewhat pessimistic in that all present assignments, including the ones with 10 w. were treated as class B or C stations. On the other hand, the proposal seems to contain errors such as the cochannel assignments at Bristol, Tenn., and Greensboro, N.C., at 138 miles instead of the required 180 miles, etc.

APPENDIX

Frequency	Location	Frequency	Location
90.1	Sebring, Fla.	91.3	Butte, Mont.
90.9	Miami, Fla.	90.9	Missoula, Mont.
89.3	Gainesville, Fla.	90.9	Wilmington, N.C.
91.3	Pensacola, Fla.	91.3	Camden, S.C.
91.5	Savannah Beach, Ga.	90.7	Greensboro, N.C.
90.5	Athens, Ga.	90.7	Bristol, Tenn.
89.7	Birmingham, Ala.	91.5	Decatur, Tenn.
91.3	Kosciusko, Miss.	91.1	Erin, Tenn.
91.5	Hammond, La.	89.7	Charlottesville, Va.
90.9	Ruston, La.	90.3	Sutton, W. Va.
90.9	Port Arthur, Tex.	89.5*	Latrobe, Pa.
91.7	Sinton, Tex.	90.7	Bangor, Maine
91.3	Harlingen, Tex.	90.7	Essex, N. Y.
90.7	Laredo, Tex.	89.7	Elmira, N. Y.
91.7	San Angelo, Tex.	91.3*	Chautauqua, N. Y.
88.5	Austin, Tex.	88.5*	Decatur, Ill.
90.5	Denton, Tex.	88.1*	Nekoosa, Wis.
91.5	Amarillo, Tex.	91.3	Gaylord, Mich.
90.9	Hobbs, N. Mex.	90.9	Albany, Ga.
90.1	El Reno, Okla.	90.9	Wynne, Ark.
90.1	Albuquerque, N. Mex.	91.1	Rusk, Tex.
91.9	Las Cruces, N. Mex.	89.7	Eureka, Calif.
91.7	Flagstaff, Ariz.	91.9	Red Bluff, Calif.
89.7	Pueblo, Colo.	90.5	Sacramento, Calif.
91.7	Garden City, Kans.	90.9	Reno, Nev.
90.7	Newton, Kans.	89.9	Monterey, Calif.
90.5	Muskogee, Okla.	88.9	Fresno, Calif.
89.9	Springfield, Mo.	90.3	Morro Bay, Calif.
91.3	Lincoln, Nebr.	90.3	Santa Barbara, Calif.
91.7	North Platte, Nebr.	90.3	Cardiff by the Sea, Calif.
91.7	Beresford, S. Dak.	91.5	Las Vegas, Nev.
90.9	Fargo, N. Dak.	91.5	Medford, Oreg.
91.7	Redfield, S. Dak.	88.5	Salem, Oreg.
91.7	Minot, N. Dak.	90.1	Tacoma, Wash.
91.9	Glasgow, Mont.	90.9	Medical Lake, Wash.
91.7	Rapid City, S. Dak.	91.5	Boise, Idaho
90.5	Casper, Wyo.	91.3	Duluth, Minn.
91.9	Billings, Mont.	91.7	Richfield, Minn.
91.7	Black Eagle, Mont.	89.3	Newton, Iowa
91.7	Idaho Falls, Idaho.	88.9	De Soto, Mo.
91.3	Salt Lake City, Utah	88.9*	Davenport, Iowa
106.9	Juneau, Alaska	90.1	Greeley, Colo.
106.9	Anchorage, Alaska	88.9	Yakima, Wash.
106.9	Ketchikan, Alaska	90.3	Hot Springs, Ark.
91.9	Honolulu, Hawaii	106.9	Fairbanks, Alaska
91.9	Elko, Nev.	91.9	Maunaloa, Hawaii
91.3	Tucson, Ariz.		
91.5	Phoenix, Ariz.		

The five frequencies with an asterisk () are class A, all others are class C and class B power class.