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## FCC Inquiry: Digital Radio Rules and Policies

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The FCC has opened a wide-ranging inquiry into the regulation of digital radio that promises to have lasting impact.

The Commission previously had selected in-band, on-channel ("IBOC") as the means by which digital broadcasting is to ultimately replace our current analog AM and FM, and designated the iBiquity system as the exclusive technology to implement it. The Commission remains enthused over the prospect of improved audio quality, bandwidth efficiency, interference reduction and enhanced service (through multiple audio streams). For now, though, the Commission has authorized only a "hybrid" IBOC system which is to operate in tandem with, rather than as a replacement for, analog broadcasting, so as to permit the transmission of both analog and digital signals within the same spectral emission mask of a single AM or FM channel.

Severe challenges lie ahead. As a result of the cost of conversion and a dearth of consumer receivers, only a few hundred stations have been equipped for IBOC broadcasting so far. Perhaps stung by consumer resistance to the roll-out of digital television, the Commission seems poised to take a more proactive approach for digital radio than to merely rely upon marketplace forces. Thus a threshold question, which the Commission intends to explore in this proceeding, is the overriding need to encourage industry and public interest in the IBOC system. Even so, unlike for TV, the Commission does not feel that a mandatory date for terminating analog broadcasting will be needed, since IBOC leaves no spectrum to recover for other uses.

The specific areas in which the Commission seeks comment are as follows:

**Service Rules** - A key feature of IBOC is its flexibility - spectrum can be balanced between audio channels and multiple streams of data and other services, some of which may be subscription-based. The Commission asks whether a minimum amount of spectrum should be required to be devoted to audio, so as to create high definition radio that will be competitive with satellite, compact discs and other audio sources. Yet, the Commission is concerned that access to radio be expanded for all people, and wishes to explore preserving a portion of the digital channel for public safety services, foreign language programming, information and other public interest uses so as to promote diversity. In balancing these goals, the Commission is considering imposing limitations upon the leasing of portions of digital channels to others and will explore the impact of any such arrangements upon its multiple ownership restrictions. Datacasting, and especially subscription services, might be permitted only after certain essential services (such as emergency alerts) are accommodated. The Commission seems particularly concerned with the loss of services currently carried on subsidiary communications authorization (SCA) analog side bands. Subscription services may be subject to special spectrum fees and may be permitted only to the extent that they do not impair reception of at least one free digital audio stream.

**Programming Rules** - The Commission seeks guidance to apply licensees' underlying public service obligations to digital broadcasting. Specific issues include the extent to which community needs are to be addressed on multicast channels, the degree to which localism should be encouraged through a minimum amount of local origination, whether emergency alert system (EAS) equipment must function across the entire digital portion of the stream, and the possible application to subsidiary channels of numerous other current programming requirements, including station identification, candidate access and other political broadcasting rules, minimum hours of operation, sponsorship identification, contest regulation and prohibitions against cigarette advertising. (Although not specifically mentioned, presumably indecency restrictions would be considered as well.)

**AM Technical Rules** - Although deployment of IBOC holds the greatest promise for dramatic improvement in the AM band, the as-yet unknown impact upon skywave propagation remains a key challenge. So far, AM digital nighttime operation has not been authorized. The Commission seeks comment upon a recent proposal by the National Association of Broadcasters to permit AM full-time digital operation and for the Commission to address instances of unexpected nighttime interference on a case-by-case basis, much as it does with respect to daytime AM IBOC interference (including the right to order power reductions or, in extreme cases, to require termination of IBOC operation). At minimum, the rule requiring expanded band stations to broadcast in stereo will need to be revisited, since analog AM stereo is incompatible with IBOC operation.

**FM Technical Rules** - The Commission's principal concern with digital FM is the relatively low power used by stations having high antenna elevations; when reduced to the extremely low levels for digital (1% of FM analog power), the signal could fall below the noise floor and become unintelligible, and therefore new recommended power levels may be needed. The Commission is also seeking comment as to methods for determining FM operating power and predicted coverage, authorization of antenna changes, protection of Channel 6 by reserved-band facilities and the extent to which FM translator stations may be permitted (or should be required) to transmit digital signals.

**Patents** - In exchange for having its system endorsed on an exclusive basis, iBiquity agreed to extend licenses to all parties on fair terms. The Commission plans to monitor iBiquity's performance to be sure that their technology is reasonably accessible without unfair discrimination. The Commission seeks comment as to iBiquity's performance so far in order to determine whether oversight or regulation is needed.

**Non-Commercial Stations** - The Commission often has sought ways by which public broadcasters can obtain revenue to offset their operating expenses, consistent with their underlying mandate to operate primarily for non-profit, non-commercial, educational purposes. The Commission specifically applied these principles to non-commercial educational television by permitting advertising over ancillary or supplementary services presented on excess DTV channels that do not constitute broadcasting (although all such services are subject to a fee of 5% of gross revenues generated by those services). The Commission wishes to explore extending a similar policy to digital radio.

**Low Power FM** - The Commission has already determined that LPFM operations will not interfere with full power digital service. A recent testing program found no reason to restrict third-adjacent channel LPFM stations due to potential interference concerns. Even so, the Commission now seeks general comment on the potential impact of digital conversion of LPFM stations upon other facilities.

**Content Control** - The Recording Industry Association of America (RIAA) has raised concern that digital broadcasting could facilitate serial copying and Internet distribution in violation of publishing and recording copyrights. The Commission seeks to predict the extent of potential injury, particularly with reference to the experience of countries like Great Britain where digital broadcasting is commonplace. If a problem is likely to exist, then the Commission wishes to explore whether it has authority to address RIAA's concerns and, if so, whether it should act or instead defer to solutions and remedies already available through copyright and other law.

The Commission is on the threshold of assessing the extent and manner of digital broadcasting regulation. It seems inevitable that, in time, the digital system will replace analog broadcasting, and so the rules and policies now under consideration will play a critical role in shaping the future development and nature of our industry.

The Commission has invited comments by June 16 and replies by July 16. We would be glad to provide you with a complete copy of the Commission's "Further Notice of Proposed Rulemaking and Notice of Inquiry" in this matter (MM Docket 99-325, FCC Document 04-99, released April 20) or you may obtain it from the Commission's website ([www.fcc.gov](http://www.fcc.gov)). In the meantime, if you would like to discuss any of these matters and their possible impact upon your plans or operations, please be sure to let us know.

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