

COMMUNICATIONS ACT AMENDMENT—TRANSLATOR BROADCAST STATION OPERATIONS

MAY 25, 1976.—Ordered to be printed

Mr. MAGNUSON (for Mr. PASTORE), from the the Committee on Commerce, submitted the following.

REPORT

[To accompany S. 2847]

The Committee on Commerce, to which was referred the bill (S. 2847) to amend section 318 of the Communications Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programming, and to authorize frequency modulation (FM) radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

SUMMARY AND PURPOSE OF THE LEGISLATION

S. 2847 was introduced January 19, 1976 by Senators Magnuson and Pearson by request of the Federal Communications Commission (FCC).

Section 318 of the Communications Act of 1934 presently requires a licensed operator for all broadcast stations except those "engaged solely in the function of rebroadcasting the signals of television broadcast stations" (clause (3) of the first proviso). This provision excepts television broadcast translators—both VHF and UHF—from the licensed operator requirement provided no material is originated on the translator.

S. 2847 would amend section 318 by deleting the word "television" from the above-quoted clause, thereby allowing the FCC to authorize unattended FM broadcast translator operation in the same manner now permitted for television broadcast translators.

S. 2847 would also amend section 318 by deleting the word "solely" from the above-quoted clause and substituting the word "primarily" thereby enabling the FCC to authorize translator broadcast stations to originate limited amounts of local programming.

BACKGROUND AND NEED FOR LEGISLATION

Translator stations are low-power broadcasting stations which receive the incoming signals of a television or FM radio station, amplify the incoming signals, convert—or “translate”—them to a different output frequency, and retransmit the signals to the community or area to be served. Translators have been utilized in areas of the country where, because of terrain or extreme distances, it is not possible to receive the signals of originating television or FM radio stations directly off-the-air. They have developed as a simple and relatively inexpensive means of making broadcast service available to small, sparsely populated communities where demand for television and FM radio is great and financial resources are meager. In such areas, translators often provide local residents with their only source of television or FM radio reception. The following table indicates the distribution of translators operating in the United States:

	UHF television translators	VHF television translators	FM translators
Alabama.....	5	0	0
Alaska.....	4	125	1
Arizona.....	53	80	5
Arkansas.....	4	3	
California.....	103	155	14
Colorado.....	76	296	21
Connecticut.....	4	0	1
Delaware.....	0	0	
District of Columbia.....	0	0	
Florida.....	10	0	
Georgia.....	10	0	1
Hawaii.....	20	4	2
Idaho.....	25	92	8
Illinois.....	4	1	
Indiana.....	2	0	
Iowa.....	23	6	3
Kansas.....	9	24	2
Kentucky.....	5	25	
Louisiana.....	0	2	
Maine.....	2	9	
Maryland.....	2	12	3
Massachusetts.....	0	1	
Michigan.....	14	8	3
Minnesota.....	62	11	4
Mississippi.....	1	2	
Missouri.....	9	8	1
Montana.....	32	263	13
Nebraska.....	27	46	1
Nevada.....	51	107	8
New Hampshire.....	2	4	
New Jersey.....	0	0	
New Mexico.....	59	125	1
New York.....	81	17	
North Carolina.....	6	47	
North Dakota.....	1	36	
Ohio.....	3	0	
Oklahoma.....	14	11	
Oregon.....	88	146	4
Pennsylvania.....	39	7	1
Rhode Island.....	1	0	
South Carolina.....	1	5	
South Dakota.....	7	40	
Tennessee.....	2	12	
Texas.....	80	30	
Utah.....	63	246	52
Vermont.....	6	3	
Virginia.....	40	7	4
Washington.....	56	158	9
West Virginia.....	8	2	1
Wisconsin.....	7	0	6
Wyoming.....	15	138	15
Total.....	1, 149	2, 325	184
Puerto Rico.....	6	6	
Guam.....	4		
Virgin Islands.....	1		
Canal Zone.....	0		

Translator operations have been financed in various ways. Primary broadcast stations have constructed translators to expand the coverage of their signals. In some instances, appliance dealers, hoping to create a market for television sets, sponsored or substantially contributed to the construction of translator stations. In most cases, however, the installations are cooperatively financed. Contributions are solicited throughout the community or memberships may be sold in a television or FM radio club in order to finance the facility. In this regard, several State legislatures have enacted laws to assist in financing television translator operation and maintenance.¹ Direct community support is usually needed because the vast majority of translators do not generate revenue from their operations.

Unattended FM translator operation

To assist in making translators economically viable, Congress in 1960 amended section 318 of the Communications Act of 1934 to enable the FCC to permit television translator stations to operate without a licensed operator.² So amended, section 318 precludes Commission waiver or modification of the operator requirement for "stations engaged in broadcasting (*other than those engaged solely in the function of rebroadcasting the signals of television broadcast stations*) * * *" (Language of the 1960 amendment in italic.)

At the time this amendment was enacted, the only translator facilities in operation were those which rebroadcast the signals of television broadcasting stations. As a result of technological advancements over the past decade, FM radio translator stations have become feasible, and in 1970 the FCC modified its rules to authorize their construction and operation.³

In adopting the FM translator rules, the FCC stated:

Section 318 of the Communications Act requires that the operation of every broadcast station, with the specific exception of television broadcast stations engaged solely in rebroadcasting, be placed in charge of a licensed operator. The Commission cannot, of course, waive this statutory requirement, although we are now preparing a proposal for submission to Congress to amend the statute to allow a similar exception for FM translators. Until Congress changes the law, a licensed radio-telephone operator is required.⁴

S. 2847 would extend the exception for unattended television translator operation to FM translators. Technical developments now enable FM translators to operate free of interference to other radio services without a licensed operator on duty. The Committee believes that section 318 should reflect this advanced technology by excepting FM translators from the licensed operator requirement. In the Committee's judgment, this action is necessary to make FM translator service economically viable in underserved and sparsely populated areas of the country. Given the existing exception for unattended television translator operation, the Committee perceives no reason for refusing to extend this exception to FM translators.

¹ E.g., Idaho Code, secs. 31-4101 through 31-4121 (1969); Montana Revised Code, (secs. 70-401 through 70-425 (1947)); and Utah Code Annotated, sec. 11-2-2 (1953).

² Public Law 86-609, approved July 7, 1960, 74 Stat. 363; see S. Rep. No. 980, 86th Cong., 1st sess., to accompany S. 1886, Sept. 4 (legislative day, Aug. 31), 1959 (Committee on Interstate and Foreign Commerce).

³ FCC Docket No. 17159, 35 Fed. Reg. 15338, 20 R.R. 2d 1533 (Oct. 1970).

⁴ FCC Docket No. 17159, par. 12.

Limited local origination

The FCC has construed section 318 as limiting translators to re-broadcasting the signals of primary television and FM stations without any significant alteration of the characteristics of the incoming signals. In a 1968 rulemaking proceeding, the Commission interpreted section 318 to allow UHF translators to originate 20 seconds of commercial advertising per hour, limited to slide announcements,⁵ and in 1975 this permissible commercial origination was expanded to 30 seconds per hour.⁶ No program origination whatsoever has been allowed.

The FCC has stated that as a result of the above construction of section 318, translator stations are not self-supporting and must depend on public generosity to sustain their operations. The Commission has also noted that the prohibition on program origination in many instances deprives those people dependent on translator service of their only potential source of local programming, such as emergency alerts and coverage of local political and other news events. The FCC has therefore requested this legislation to allow the Commission to authorize limited amounts of local origination by translator stations. S. 2847 would accomplish this result by substituting the word "primarily" for "solely" in clause (3) of the first proviso of section 318.

In requesting this legislation, the FCC has suggested that specific limitations on the amount of local origination to be permitted could be best determined in a Commission rulemaking proceeding to implement the proposed section 318 amendments. The Commission has further stated that in deciding upon such limitations it would be bound by the section 318 requirement that origination be limited to the extent necessary to insure that translators retain their primary characteristic as rebroadcast stations.

The Committee believes that the public interest in the larger and more effective use of radio and television would be well-served by enabling the FCC to authorize translator stations to originate limited amounts of local program and commercial material. As noted, in many areas of the country translators provide the only access to satisfactory television and FM service. At present, however, such service consists solely of the programming of the distant station retransmitted by the translator. Allowing limited origination by translators would give their audiences access to local news and information of vital community interest, as well as enable translators to meet the difficult problems of financial support for their operation and service.

The Committee is of the view that specific limitations on the amount and nature of local origination to be allowed, as well as any attending technical or other requirements, should be determined by the Commission in a rulemaking proceeding to implement the legislation. Such a proceeding will afford all interested parties an opportunity to comment on the specific limitations to be imposed.

While the Committee would leave detailed implementation of this legislation to the expertise and discretion of the administrative agency, it is emphasized that the allowed origination must be so limited as to maintain the primary rebroadcasting function of translator stations. In this regard, the FCC has previously conditioned the use of translators so as to permit them to perform their supplementary function

⁵ FCC Docket No. 15971, 13 FCC 2d 305 (1968).

⁶ FCC Docket No. 19861, 54 FCC 2d 421 (1975).

without impairing or burdening the maintenance and development of the regular television and radio services which provide the public with benefits beyond the capacity of translators. The FCC is also under an existing mandate to insure that translators operate on their assigned frequencies so as not to cause objectionable interference with other telecommunications services using the broadcast spectrum. The Committee expects that the FCC will continue to adhere to these principles in implementing this legislation.

HEARINGS

Hearings on S. 2847 were held before the Subcommittee on Communications on January 21, 1976. Testifying in support of the legislation were the Chairman of the Federal Communications Commission and counsel for the National Translator Association.

Subsequent to the hearings, statements were received from the National Cable Television Association, the Association of Maximum Service Telecasters, Inc., the National Association of Broadcasters, and Mr. Bill Sims, President of Wycom Corp., Laramie, Wyoming.

The Committee has fully considered all testimony and submissions in recommending enactment of the legislation here reported.

CONCLUSION

Translator broadcast stations have provided an invaluable service to those areas of the nation which would otherwise be without adequate access to radio and television reception.

The amendment to the Communications Act proposed by S. 2847 will enable translators to enhance this essential service consistent with their primary rebroadcasting function.

SECTION ANALYSIS

Section 318 is amended by deleting the word "solely" in clause (3) of the first proviso and inserting in lieu thereof "primarily", thereby enabling the FCC to authorize translator broadcast stations to originate limited amounts of local programming.

Section 318 is also amended by striking out the word "television" in clause (3) of the first proviso, thereby allowing the FCC to authorize unattended FM broadcast translator operation in the same manner presently permitted for television broadcast translators.

ESTIMATED COSTS

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510, 91st Congress), the Committee estimates that no additional costs will accrue to the government as a consequence of this legislation. The Committee is not aware of any cost estimate to the contrary.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as

reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in roman):

AMENDMENT OF SECTION 318 OF THE COMMUNICATIONS ACT OF 1934,
AS AMENDED (47 U.S.C. 318)

SEC. 318. The actual operation of all transmitting equipment in any radio station for which a station license is required by this Act shall be carried on only by a person holding an operator's license issued hereunder, and no person shall operate any such apparatus in such station except under and in accordance with an operator's license issued to him by the Commission: Provided, however, that the Commission if it shall find that the public interest, convenience, or necessity will be served thereby may waive or modify the foregoing provisions of this section for the operation of any station except (1) stations for which licensed operators are required by international agreement, (2) stations for which licensed operators are required for safety purposes, (3) stations engaged in broadcasting (other than those engaged **[solely]** *primarily* in the function of rebroadcasting the signals of **[television]** broadcast stations), and (4) stations operated as common carriers on frequencies below thirty thousand kilocycles: provided further, that the Commission shall have the power to make special regulations governing the granting of licenses for the use of automatic radio devices and for the operation of such devices.

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