

# **BSB Communications**

**Consulting • Engineering • Properties  
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OFFICE OF CHIEF  
DOMESTIC FACILITIES DIVISION  
COMMUNICATIONS BUREAU

November 10, 1992

Donna R. Searcy, Secretary  
Federal Communications Commission  
1919 M Street, N. W.  
Washington, D. C. 20554

Dear Ms. Searcy,

Please accept my Petition to Deny Applications of Satellite CD Radio, Inc. for authority to construct, launch and operate a Digital Audio Radio Satellite System. File numbers are:

49/50-DSS-P/LA-90  
58/59-DSS-AMEND-90  
44/45-DSS-AMEND-92

Enclosed are the required five copies.

Sincerely,



Anthony V. Bono  
Sole General Partner

AVB/sv

CC: All Commissioners

FCC (11/12/92)

NOV 12 1992

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

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NOV 12 1992

In the Matter Of )  
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Applications of )  
Satellite CD Radio Inc. )  
for Authority to Construct )  
Launch and Operate a Digital )  
Audio Radio Satellite System )

MAIL BRANCH

File Nos. 49/50-DSS-P/LA-90  
58/59-DSS-AMEND-90  
44/45-DSS-AMEND-92

PETITION TO DENY

Opposition Comments of Anthony V. Bono, of BSB Communications, pursuant to the Public Notice released October 13, 1992, herewith submits comments in opposition to the allocation of 2310-2360 mhz for terrestrial or satellite broadcast and the application of any party for the use of that frequency band including Satellite CD Radio, Inc. (CD Radio) which is under consideration by the Commission in the above referenced proceeding. I submit the following:

I have been a broadcaster since 1970 and have worked for a total of twelve radio stations located in large, medium and small markets. I have been an announcer, program director, news man, production director, and a technical supervisor. Currently I am the Technical Operations Director of KSBJ(FM) Humble, Texas.

My life long dream has been to own and operate a small market radio station and that dream is almost a reality. I currently have a CP to build KLTO (FM) Nowata, Oklahoma. My concern is that the satellite radio proposal will divide my future

listenership to a degree that I will be unable to pay my expenses and stay in business. The tough economic times coupled with the vast increase of signals makes it tough to survive.

I sincerely believe Satellite CD Radio and other S-Band radio users would pose a severe threat to local broadcasters. I plead with you to DENY the allocation of 2310-2360 mhz for use by Satellite CD Radio, Inc. or any other company desiring the use of that spectrum for radio broadcasting. There are too many signals available to listeners now, and the addition of nationwide satellite delivered services would divide listenership further forcing many local broadcasters into bankruptcy.

In my opinion, satellite delivered radio will hurt small broadcasters the most. Even though Satellite CD Radio promises to not solicit advertising (or local advertising) their service still adds more signals to every market. This would divide listenership to a point where many local radio stations could not survive. Local radio stations could not justify their rates for so few listeners. Financially struggling stations would be forced to cut more services giving them less of a competitive edge with satellite radio. Satellite radio, as a national service, would have the advantage of having more dollars to program. Small and medium market AM and FM stations simply could not out program satellite radio. Many local broadcasters would have no option but to give up an sign off because of too much competition and decreased listenership. Local radio would become less financially viable. It would be localism's demise.

Fewer local stations equates to less diversity, not more. Satellite CD Radio and any other future proposed satellite radio service in the S-Band is not in the public interest but in the interest of a few large national broadcasters who are not interested in each community individually. Satellite broadcasters would divide the much needed listenership of the local station or stations.

The recent economic downturn has affected all broadcasters, but the real recession in radio has been caused by the proliferation of signals. This recession would have occurred irrespective of the national economic downturn because the FCC has licensed too many stations which are chasing too few dollars. Docket 80-90 added too many signals and our economic downturn hasn't helped any. The new duopoly rules were designed to provide broadcasters some relief, but the new rules help small market broadcasters the least. The addition of satellite delivered radio, commercial or subscription, would end the life of many small and medium market radio stations. Clearly addition of S-Band satellite delivered services reduces local public interest benefits. The public doesn't need local stations to reduce service. It certainly isn't in anyone's best interest to supply more signals to a market than what the market can support. Enough is enough.

Satellite radio has the advantage of national coverage. Listeners would never leave the coverage area. Many listeners who drive out of the local station's coverage area may opt to leave their radio on "satellite" especially since many small market stations

have smaller coverage areas. It just is not fair to sacrifice local radio stations for a few national broadcasters. Digital technology should be used to help AM and FM stations which by the way are already struggling. The last thing AM and FM stations need is a new satellite service.<sup>1</sup> DAB technology should be used to advance our current AM and FM systems.

It is also unfair to give satellite S-Band the advantage of being the first to employ DAB technology. NAB spokeswoman Lyn Reynolds said it best:

"It is premature to accept an individual company's application before you have a comprehensive policy on DAB in place...to put satellite DAB ahead of terrestrial DAB - to give satellite a jump - creates a serious threat to localism"<sup>2</sup>

Satellite radio would begin with an unfair technological advantage over current AM and FM stations. It could be years before the in-band DAB solution is completed for AM and FM.

I appreciate the comment of Commissioner Duggan who said:

"I remain committed to shoring up radio's ability to provide the vital local service we have long expected of it and, indeed, the local service that the communications act requires."<sup>3</sup>

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<sup>1</sup>"Although the proposal does not preclude terrestrial DAB, most believe the S-Band unsuitable for such a service because of its poor signal propagation. That effectively leaves the spectrum to satellite DAB players." Broadcasting, October 5, 1992; pg15.

<sup>2</sup>Broadcasting Magazine, October 19, 1992: pg 28.

<sup>3</sup>Broadcasting Magazine, October 12, 1992; pg 12

But how will radio be able to continue providing "the vital local service" if there are no funds to support it? Adding satellite DAB on the S-Band will further divide the local station's listenership. Satellite services will seek listenership regardless of whether that service is subscription or commercial. Listenership must come from somewhere and it will be at the local station's expense, literally. AM and FM stations are already struggling for their very life and the addition of 30-120 signals would be devastating to their listenership. If fewer people listen to local radio then local radio will generate fewer dollars. Fewer dollars means fewer services and fewer services equates again to fewer listeners. To me it seems "shoring up radio's ability to provide the vital local service" means DENYING the allocation of S-Band and use of 2310-2360 mhz for Satellite CD Radio, Inc. or any other party. We simply do not need more signals, especially on a national basis.

Commissioner Duggan also stated that he is worried about delays creating a financial hardship for would be satellite broadcasters.<sup>4</sup> What about the financial hardship satellite services will pose on AM and FM stations? These satellite channels will be competing for those "local" listeners and will create a serious financial hardship for local stations. Local stations have worked years providing local service and have worked hard to generate business and capital to operate their facilities. Who has been providing this vital local service all these years? Is it fair to create this kind of hardship for local broadcasters? I assert that it isn't fair.

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<sup>4</sup>Inside Radio; October 9, 1992.

It isn't in the public's best interest to sacrifice many local radio stations for the operation of several large satellite radio companies. The allocation of the S-Band just opens the opportunity for more venture capital funded operations to invade the business. To them it is all dollars and cents. To the local station it is the communities they serve. If the local station's listeners are divided by satellite services it can only be detrimental to their local service and to their business. Who will be interested in "local service" in the future when many local stations are out of business? Satellite CD Radio, Inc. and other future radio services are only interested in luring the local listener away from the local station.

The premise of radio broadcasting in general revolves around the "local service that the communications act requires"<sup>5</sup> In reality creation of satellite services in the S-Band is promoting non-local large corporate type broadcasting and not local based services that are in-touch with their communities. Satellite radio services on the S-Band certainly must be DENIED if for this reason alone. Satellite radio will hurt the local broadcaster and will undermine public interest benefits.

I doubt that localism can survive an even more diluted market place. There's just not enough listeners and dollars to support local stations with the addition of satellite radio. It's plain and simple: as dollars shrink, services are cut and local radio becomes less "locally competitive" and more susceptible to satellite radio stealing

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<sup>5</sup>Broadcasting Magazine, October 12, 1992; pg 12

listeners.

We need to advance our current system with digital technology and we need to stop contemplating adding more "signals". With the aftermath of docket 80-90 and the addition of many FM signals we need to concentrate on ways to help the local broadcaster provide better local service. The last thing any local broadcaster needs is another blow like 80-90. The addition of satellite services would be worse.

The President of Satellite CD Radio, Inc., Robert Briskman, said that broadcasters have little to fear from their service. He said that it would have a minimal effect on land based counterparts because satellite radio revenues would come from subscriptions, not advertising.<sup>6</sup>

He stated:

"when you get in your car to go to work, you'll tune in the local AM and FM stations for the news, weather and traffic reports. Then at some point as you're slugging your way down Route 66, you'll hit the satellite button and pick up a channel."<sup>7</sup>

I disagree with Briskman. AM and FM broadcasters have much to fear from this service. As far as I know, there is no commitment from Satellite CD Radio, Inc. to maintain a subscription service forever. Nor can we assume the remainder of the S-Band satellite radio spectrum would contain subscription services only. The

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<sup>6</sup>Broadcasting Magazine, October 12, 1992: pg 12.

<sup>7</sup>Broadcasting Magazine, October 12, 1992; pg 12.



possibility of advertising based satellite super stations poses a very serious threat to broadcasters.

I call it the "nose under the tent" approach to approval. Once the S-Band is available for satellite service then commercial radio broadcasters will want to participate.

Satellite CD Radio, Inc. just provides the means for other interested parties to operate commercial facilities.

And regardless of whether satellite delivered services are subscription or commercial, the service will still divide local listenership. Satellite radio will compete for the same listeners as our local AM and FM stations. If fewer people listen to local radio it will be local radio's demise. The writing is on the wall if this is approved. It is a struggle for many local stations to stay in business today. The addition of Satellite delivered services will make radio's economic conditions even worse. If you don't believe me, conduct a survey with local stations. It will not take long to draw this conclusion.

Briskman asserted that listeners would turn to the local stations for news, weather and traffic reports and then alluded to a belief that most would use satellite radio when traveling long distances.<sup>8</sup> There is nothing to substantiate this. First of all, the proposed satellite service would be available 24 hours every day and would compete

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<sup>8</sup>Broadcasting Magazine, October 12, 1992; pg 12

with local broadcasts everywhere on that basis. Plus, local stations have multi-faceted programming and even special programming. And a large percentage of local programming consists of music. Satellite CD Radio will most assuredly provide all of these services more professionally than small market radio stations.

Satellite radio cannot be compared to the use of CDs and cassettes as Briskman asserts. It is another radio option that is tuned in! And this service will be available on home and car receivers in conjunction with our current AM and FM bands. It is another "band" of options broadcast on a national level proliferating our local markets with too many signals. This satellite service will provide more listening options than what any local market can economically stand. It will drive many local broadcasters out of business.

## CONCLUSION

You must in good conscience DENY the use of 2310-2360 mhz for the use of satellite radio services including Satellite CD Radio, Inc. We do not need additional spectrum and it is not in the public interest. It dilutes the market place with too many signals and it undermines localism. I agree with Jeff Baumann, Executive Vice-President, General Council of the NAB, who considered adding the services an "anathema".<sup>9</sup>

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<sup>9</sup>Broadcasting Magazine, October 5, 1992; pg 15.

If you feel totally obligated to allocate the S-Band spectrum, regardless of my preceding arguments, then limit the use to government agencies such as the Voice of America, the National Weather Service, and the United Nations. Perhaps this would be in the public's best interest. And then only a small portion of the 2310-2360 mhz spectrum would be needed. The current aeronautical telemetry users could, for the most part, stay where they are. I believe it is also unfair to move the current users of the S-Band elsewhere. They were there first.

I am totally against the use of S-Band for satellite services all together. Yet I am suggesting alternatives that would over saturate the local market place to a lesser degree. Limiting S-Band to subscription services only would be perhaps the least of two evils, yet this too, I believe, would dilute local listenership. If S-Band were allocated for satellite services it should be allowed for subscription services only and there should be no window in the future for subscription services to convert to commercial services.

I ask for DENIAL of the use of the S-Band for Satellite CD Radio, Inc and for the DENIAL of the allocation of 2310-2360 mhz for DAB services.

Respectfully submitted,

A handwritten signature in black ink that reads "Anthony V. Bono". The signature is written in a cursive, flowing style.

Anthony V. Bono

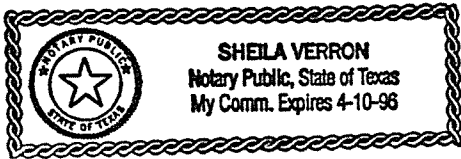
AVB/sv

AFFIDAVIT

I, Anthony V. Bono, hereby attest to the accuracy of the allegations of fact contained in the Petition to deny, of which I have personal knowledge.

Anthony V. Bono  
Anthony V. Bono

11/10/92  
Date



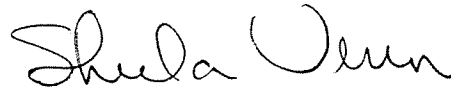
Sheila Verron  
Notary

11-10-92  
Date

CERTIFICATION OF SERVICE

I, Sheila Verron, by certify that on this 10th day of November, 1992, I have served a copy of the foregoing "Opposition Comments of Anthony V. Bono" on the Following:

Robert Briskman  
Satellite CD Radio, Inc.  
1001 22nd St. N. W. 6th Floor  
Washington, D. C. 20037-1817



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Sheila Verron