# FEDERAL COMMUNICATIONS COMMISSION
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Re: Midwest Television, Inc.
KFMB (AM), San Diego, CA
Facility Identification Number 42120

Kiertron, Inc.
KBRT (AM), Avalon, CA
Facility Identification Number 34588

Interference Complaint

Dear Counsel:

The staff has under consideration 1) *Interference Complaint and Request for IBOC Power Reduction or Termination* ("Complaint") filed September 18, 2008, on behalf of Midwest Television, Inc. ("Midwest") licensee of Station KFMB(AM), San Diego, California; 2) *Opposition to Interference Complaint and Request for IBOC Power Reduction or Termination* ("Opposition") filed October 1, 2008, by Kiertron, Inc. ("Kiertron"), licensee of Station KBRT (AM), Avalon, California; 3) a reply ("Reply") to the Opposition filed by Midwest on October 14, 2008; 4) *Request to Extend IBOC Operation at 2 dB below Authorized Power* filed December 19, 2008, by Kiertron; and related pleadings.[1]

[1] *Digital Operation Status Notice* filed October 1, 2008, by Kiertron; *Request for Immediate Enforcement Action* filed December 30, 2008, by Midwest.

## Background

KFMB is a Class B AM station licensed to San Diego, California, for operation on 760 kHz with 5 kW daytime and 50 kW nighttime, employing a directional antenna during nighttime hours only. KBRT is a Class D AM station licensed to Avalon, California, for operation on 740 kHz with 10 kW daytime and 113 watts nighttime secondary power, employing a directional antenna during both daytime and nighttime hours. Station KFMB originally was licensed for operation on 540 kHz; however, as a result of the 1961 treaty with Mexico, KFMB was required to vacate the 540 kHz frequency. No fully-spaced channel was available for the station, and the Commission decided to relocate it to 760 kHz, and granted waiver of the otherwise impermissible contour overlap with Station KBRT.[2] [3] As a consequence, There is substantial overlap of the respective 5 mV/m contours of the two stations.

In its Complaint, Midwest alleges interference to the reception of KFMB from the in-band, on-channel ("IBOC") digital operation of KBRT. The Complaint was supported by technical exhibits prepared by Joel T. Saxburg of Broadcast Engineering and Equipment Maintenance Company, representing Kiertron; and Rick Bosscher, RF Systems manager for Midwest. The technical exhibits report the results of joint measurements and listening tests conducted by representatives of both stations on March 5, 2007, including spectrum analyzer photographs and audio recordings. The complaint is further supported by correspondence from several listeners to Station KFMB, who complain of interference to KFMB. Midwest states that, following the conclusion of the joint tests, it has repeatedly reached out to Kiertron to resolve the interference, but that Kiertron has refused to take any action. Midwest asks that the Media Bureau instruct Kiertron to eliminate the interference by reducing the power level of the primary digital subcarrier of KBRT to the extent necessary or terminate IBOC operations entirely.

In its Response, Kiertron does not dispute that its IBOC operation causes interference to the reception of Station KFMB; however, it argues that such interference is permissible, due to the second-adjacent channel frequency allocation waiver which was granted in 1962. Kiertron states that it has been cooperative with Midwest in attempting to resolve the interference issue, and that it voluntarily reduced KBRT's IBOC operation by 2 dB as an accommodation to KFMB's complaints. Kiertron states that the interference remediation procedures adopted by the Commission in the IBOC Order apply only to first adjacent channel interference, and not to instances of second-adjacent channel interference such as the instant case.

Midwest's Reply disputes Kiertron's claims that the short-spacing between the two stations justifies the interference and that the interference remediation procedures adopted in the IBOC

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[2] *See Clear Channel Broadcasting*, Report and Order, 31 FCC 565 (1961). Station KFMB subsequently sought and was granted a nighttime power increase to 50 kW (BP-19880429AE, BL-19920526AE); however, nighttime operation is not relevant to this case.

[3] In 1962, the Commission's rules prohibited overlap of the respective 2 mV/m and 5 mV/m contours of AM stations operating on second adjacent channels; The rules were modified in 1991 to prohibit overlap of the respective 5 mV/m contours. *See Review of the Technical Assignment Criteria for the AM Broadcast Service*, 6 FCC Rcd 6273 (1991); Report and Order, at para. 59.

Order apply only to first adjacent channel interference. Midwest reiterates that Kiertron has not been cooperative, and asks that the Commission act to resolve the interference.

**Discussion**

Hybrid digital AM stations transmitting IBOC digital signals have greater potential for interference to stations operating on first and second adjacent channels than analog-only AM stations, due to the wider bandwidth required to transmit the digital signals. In response to concerns raised by commenters in MM Docket No. 99-325,[4] the Commission established procedures for resolving instances of interference caused by IBOC operation. The Commission stated:

> In the interest of striking a balance between interference concerns raised by Clear Channel and certain other broadcasters and the strong interest of other commenters in maximizing coverage, we will adopt a three-pronged approach to the issue of primary sideband power levels. This approach is designed to provide a streamlined process to safeguard current reception of analog signals. First, we will authorize AM stations to commence operation with the hybrid AM IBOC system tested by the NRSC, in accordance with the special temporary authorization (STA) and notification procedures described below. When interference problems are anticipated prior to commencement of interim IBOC operations, or when actual interference occurs, we will permit licensees to adjust the power level of the primary digital subcarriers downward by as much as 6 dB. Licensees are required to notify the Commission of any such power adjustments. We expect that, by use of this mechanism, most cases of interference will be resolved when interim operations commence. Finally, in cases in which the hybrid AM IBOC operation of one station results in complaints of actual interference within another station's protected service contour and the respective licensees are unable to reach agreement on a voluntary power reduction, the Commission staff may order power reductions for the primary digital carriers or, in extreme cases, termination of interim IBOC operation. In a case in which licensees fail to reach agreement on a voluntary power reduction, an affected station may file an interference complaint with the Commission. This complaint must describe any test measures used to identify IBOC-related interference and fully document the extent of such interference. The Media Bureau shall resolve each complaint within ninety days of filing. In the event the Bureau fails to issue a decision within ninety days of the date on which a complaint is filed, the interfering station shall reduce immediately its primary digital subcarrier power level by 6 dB.[5]

Based on the evidence presented in the pleadings, it is undisputed that the IBOC operation of Station KBRT is causing significant interference to the reception of Station KFMB within its protected 0.5 mV/m contour. Furthermore, the parties have been aware of the interference for approximately two years, they have been unable to resolve the matter, the 2 dB power reduction implemented by Kiertron has not been effective and the interference to KFMB continues. We reject Kiertron's argument that the interference remediation procedures adopted in the IBOC Order do not apply to cases of second-adjacent channel interference. We find that a greater power reduction must be applied to KBRT's upper primary digital sideband in order to mitigate the interference.

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[4] *Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service*, First Report and Order, 17 FCC Rcd 19990 (2002), (hereinafter, the "IBOC Order").

[5] IBOC Order, 17 FCC Rcd at 20000 (¶ 29) (footnotes omitted).

**Conclusion**

Accordingly, IT IS HEREBY ORDERED that Midwest's *Interference Complaint and Request for IBOC Power Reduction* IS GRANTED to the extent indicated herein and, in all other respects, IS DENIED. Kiertron's *Request to Extend IBOC Operation at 2 dB below Authorized Power* IS DENIED. Within ten days from the date of this letter, Kiertron shall reduce the upper primary digital sideband of Station KBRT by an additional 4 dB; i.e., to 6 dB below the level specified in the IBOC Order, and shall notify the Commission that the foregoing power reduction has been implemented. We encourage the parties to work cooperatively to determine whether the 6 dB reduction resolves the problem. If necessary, we encourage the parties to conduct further testing at even lesser digital power levels. Note that, prior to conducting such tests, permission must be obtained from the Commission via a request for special temporary authority.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau