



Via ECFS

October 17, 2017

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Ex Parte Notice:* GN Docket No. 16-142, *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*

Dear Ms. Dortch:

On October 16, 2017, the undersigned met with Matthew Berry, Chief of Staff, and Alison Nemeth, Media Advisor to Chairman Pai, to discuss the issues raised in the above-captioned proceeding. The presentation focused on an overview of Next Generation Television and several of the issues raised in the pleadings. Included among the issues were the following:

INCORPORATING STANDARDS AS RULES - A/321 OR A/322

The Commission should avoid over-regulation to permit innovation: in other regulated telecom services, the Commission’s rules support maximum innovation by specifying interference requirements rather than technical standards. We believe the Commission should follow a similar approach here.

The Commission does not need to specify A/322 to ensure universal compatibility. Equipment manufacturers build to industry standards – and service providers use those standards – in the ordinary course without any government mandates. Mandating A/322 would hamper innovation without any corresponding benefit.

The existing interference parameters *already specify* the emission envelop in A/53 (Section 73.622(h) of the Commission’s rules). That sets the limit for out-of-band DTV emissions. It defines the emission mask and ratios of desired to undesired signals. Section 73.622(h) will apply to Next Gen TV broadcasts. There are many forms of transmission that can operate within the constraints of Section 73.622(h). Mandating a single technical standard to assure compliance for television only is not necessary and would hamper innovation. The Commission should specify only the “Bootstrap” portion of the standard (A/321) in the Rules.

Permitting broadcasters to use one iteration of ATSC 3.0 for all purposes would needlessly constrain innovation and limit the benefits the new standard can bring to the marketplace. Other industries in the communications sector routinely introduce innovations while avoiding disruption of their customer base, and they do so without regulatory oversight. Applying a higher standard to the broadcast industry will throttle innovation and risk marginalizing broadcast services.

DEPLOYMENT - SIMULCASTING REQUIREMENT

Because broadcasters seek a voluntary, market-driven deployment, and because broadcasters are likely to not have additional channels available, it is important that the Commission provide as much flexibility as possible. Broadcasters have strong economic incentives to maintain service to existing viewers. The Commission should rely on these incentives as broadcasters begin to deploy Next Gen TV and allow stations to make choices that best serve their viewers.

One of the key features of Next Gen TV is its flexibility. A station deploying the Next Gen standard could, for example, provide different versions of local newscasts to different areas in its market. The station could provide coverage of different local high school sports teams, or different public affairs programs to different segments of its market. Because Next Gen sets the stage for broadcasters to offer innovative services and interactivity, it could also allow viewers to select among dynamic programming options – for example whether to continue to watch scheduled programming or to switch to breaking news.

Accordingly, it is simply infeasible to require broadcasters deploying Next Gen to transmit *identical* content on a partner station's ATSC 1.0 facilities. Instead, the Commission should adopt a flexible requirement that allows stations to demonstrate the capabilities and advantages of Next Gen TV. ONE Media supports the framework proposed by the NAB in this proceeding for a simulcasting requirement. That framework reflects the following:

A television station licensee choosing to deploy the Next Gen transmission standard should arrange for the simultaneous transmission of television programming comprising its primary video feed on a television station in the same market using the ATSC 1.0 transmission standard.

- For purposes of this requirement, “television programming” should not include advertisements, promotions or content transmitted by means other than a real-time ATSC 3.0 broadcast transmission.
- When a television station licensee using the Next Gen standard elects to transmit multiple versions of programming personalized or targeted to specific geographic or other viewing segments, the licensee may use its discretion in determining which version of the alternative programming constitutes its primary video feed for simulcasting over ATSC 1.0.
- The television programming transmitted using the ATSC 1.0 transmission standard should be substantially similar to the programming transmitted using the Next Gen standard.
 - The Commission should not require television programming to be substantially similar to the extent that the licensee: airs localized emergency warnings or alerts; allows viewer options to switch to alternative content to address, for example, breaking news, features or content that cannot be transmitted using ATSC 1.0; or does not have the right to transmit programming using a particular transmission standard.
 - The Commission should permit licensees transmitting using Next Gen to, from time to time, transmit programming intended to highlight features and capabilities not available using ATSC 1.0 without transmitting substantially similar content on another station.

- Stations should continue to transmit television programming using the ATSC 1.0 standard until the Commission determines, in a separate proceeding, that it is appropriate to sunset the requirement for simultaneous ATSC 1.0 transmission. The requirement that television programming transmitted using ATSC 1.0 be substantially similar should apply for a period of three years.

- The Commission should also consider waivers of this simulcasting requirement in the event broadcasters are unable, after reasonable efforts, to enter arrangements for simultaneous transmission in their markets, particularly in markets with three or fewer full power stations. Rural markets should not be shut out of innovation solely because they do not have enough broadcast stations to participate in partnership arrangements. Any licensee receiving such a waiver should retain the same carriage rights it would have at its location if it were transmitting using ATSC 1.0, but must arrange for the delivery of its signal to any MVPDs required to carry the station's signal in a format the MVPD is capable of receiving.

A strict simulcasting requirement would put the Commission in the unenviable position of deciding which program stream (ATSC 1.0 or Next Gen) should be the “default” for purposes of determining whether the other program stream qualifies as a simulcast. This may be a straight forward decision early in the transition. But as Next Gen penetration grows, such decisions would necessarily be arbitrary. The Commission, however, should not mandate any specific “default” programming.

DEPLOYMENT - MVPD ISSUES

Multichannel Video Program Distributors and their advocates vastly overstate the impact of ATSC 3.0 on their ability to retransmit broadcast signals, from deceptive claims about patent royalties to disingenuous assertions about how their systems operate. They ask the Commission to condition approval of ATSC 3.0 on a long list of new regulations limiting broadcasters' retransmission consent rights. This is a transparent attempt to convert this limited proceeding – which is about technology and innovation – into a referendum on retransmission consent.

Most of the MVPD's requests simply repackage arguments filed in multiple other Commission proceedings challenging the free marketplace regime Congress adopted. One suggestion, for example, that the Commission require broadcasters to negotiate carriage of ATSC 3.0 signals separately, is styled as a “process” rule that is within the FCC's authority. The support, however, is a highly selectively quote from an FCC good faith bargaining order that, read in full, specifically and pointedly rejects exactly that MVPD position. Which streams are to be carried is a *substantive* term, and the Commission lacks authority to impose substantive limits on retransmission consent negotiations.

The claim that ATSC 3.0 will subject MVPDs to material patent royalty costs is unfounded. For example, the MVPD assertion that broadcasters might require MVPDs to change out tens of millions of set-top boxes so as to pass through ATSC 3.0's more efficient video coding is preposterous: MVPDs universally transcode broadcast programs streams into the encoding technologies that are native to their own platforms. If ATSC 3.0 permits broadcasters to provide higher quality or more engaging features than MVPDs can support, they can choose whether and when to upgrade their systems to remain competitive.

DEPLOYMENT - SFN/DTS COVERAGE WAIVERS

Broadcasters need substantial flexibility in deploying single frequency networks. The existing DTS rules are too restrictive to permit Next Gen TV SFNs to reach their full potential to better serve Americans. We have proposed that the Commission permit broadcasters to “shrink the gap” between the 41 dBμ predictive coverage contour and the 26 dBμ interference contour. So long as emissions are contained within the interference contour of the primary full power transmitter location (or interference agreements have been reached with affected parties), broadcasters should be able to locate SFN towers to increase the portion of the area within the interference contour in which useful service can be provided. This will greatly increase the utility of Next Gen television by improving service and expanding coverage without any additional assignments of spectrum.

Please contact the undersigned should you have any questions regarding this matter.

Sincerely,

/s/

Jerald N. Fritz
Executive Vice President,
Strategic and Legal Affairs
ONE Media, LLC

cc: Matthew Berry
Alison Nemeth