

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

In the Matter of:	)	
	)	
Authorizing Permissive Use of the	)	
“Next Generation” Broadcast	)	GN Docket No. 16-142
Television Standard	)	

**COMMENTS OF THE DYNAMIC SPECTRUM ALLIANCE**

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## I SUMMARY AND BACKGROUND

The DSA is a global organization advocating for laws and regulations that will lead to more efficient and effective spectrum utilization. Our membership spans multinationals; small- and medium-sized enterprises; and academic, research and other organizations from around the world, all working to create innovative solutions that will increase the amount of available spectrum to the benefit of consumers and businesses alike. Our primary goals are to close the digital divide by reducing the cost of deploying last-mile wireless networks, enabling the Internet of Things (IoT), and alleviating the spectrum crunch.<sup>1</sup>

In its *Next Gen TV NPRM*, the Commission, among other things, sought comment on whether it should permit broadcasters to use vacant channels in the repacked TV bands to establish so-called “temporary” host facilities for local simulcasting of ATSC 1.0 and ATSC 3.0 transmissions.<sup>2</sup> The DSA and others argued that allowing such so-called “temporary” host facilities would unduly expand broadcasters’ spectrum rights by allowing them to claim the TV white spaces (TVWS)<sup>3</sup> and would damage the potential success of unlicensed white space device (WSD) use in the TVWS.<sup>4</sup> DSA comments echoed what the Joint Petitioners stated in its ATSC 3.0 petition for rulemaking -- that no additional spectrum is required for this voluntary transition.<sup>5</sup> In the *Next Gen TV R&O and Further Notice*, the Commission declined to authorize the use of vacant channels for “temporary” host facilities, concluding that further comment is required.<sup>6</sup>

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<sup>1</sup> For more on the DSA, please visit: [www.dynamicspectrumalliance.org](http://www.dynamicspectrumalliance.org)

<sup>2</sup> *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, FCC 32 Rcd. at 1677, para. 14, (“Next Gen TV NPRM”).

<sup>3</sup> Letter from Kalpak Gude, Dynamic Spectrum Alliance, to Marlene H. Dortch, Secretary, FCC, at 1, GN Docket No. 16-142 (filed May 9, 2017).

<sup>4</sup> *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, Report and Order and Further Notice of Proposed Rulemaking, FCC 17-158, 32 Rcd. at 9990, para. 126, (“Next Gen TV R&O and Further Notice”).

<sup>5</sup> See *Authorization of Next Generation TV For Permissive Use as a Television Standard*, Joint Petition for Rulemaking of America’s Public Television Stations, the AWARN Alliance, the Consumer Technology Association, and the National Association of Broadcasters, GN Docket No. 16-142 (filed Apr. 13, 2016) (“Joint Petition”).

<sup>6</sup> See “Next Gen TV R&O and Further Notice” at para. 60.

The *Next Gen TV R&O and Further Notice* specifically cited ONE Media's request as impetus for seeking additional information on whether it should allow full power broadcasters to use vacant channels as "dedicated transition channels to ensure maximum continuity of service, just as it did during the transition from analog to digital."<sup>7</sup>

The Commission first seeks a definition of a vacant channel. Next, it inquires about the extent to which it should allow full power broadcasters to use vacant channels in the television broadcast band to facilitate the transition to ATSC 3.0. And, if allowed, when full power broadcasters should be able to use these channels, what procedures it should use to authorize use of the vacant channel, and any other relevant issues if full power broadcasters are permitted to use vacant channels as simulcast channels.<sup>8</sup>

In sum, the DSA urges the Commission to reject the idea of authorizing the use of vacant channels for "temporary" host facilities. First, the record is clear that no additional spectrum is required for the successful voluntary transition from ATSC 1.0 to ATSC 3.0. Second, without an end date certain to this voluntary transition, the notion that a 'dedicated transition channel' is temporary is misguided. The net result will be to increase full-service broadcasters' spectrum holdings for free and for the foreseeable future. Depending on how the Commission defines the vacant channel -- or rather when -- will determine how much spectrum will be available for eligible displaced low power television (LPTV) and TV translator (translator) stations and other users, such as WSDs and wireless microphones. Taking such action will be disruptive to the timely completion of the Post Auction Transition period and reduce the amount of spectrum available for WSDs that can be utilized to deliver broadband to rural areas of the country.

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<sup>7</sup> Id. at para. 126.

<sup>8</sup> Id. at para. 127-128.

## **II THE ATSC 3.0 JOINT PETITION CLEARLY STATED THAT NO ADDITIONAL SPECTRUM IS REQUIRED FOR THE VOLUNTARY TRANSITION**

The Joint Petition submitted to the Commission requesting that it initiate a rulemaking for the next generation television standard clearly stated that no additional spectrum is required for the transition from ATSC 1.0 to ATSC 3.0:

The Petition does not ask the Commission to give broadcasters additional spectrum to roll out Next Generation TV and does not seek any changes to the current DTV standard. Instead, broadcasters will use market-based solutions to introduce this enhanced capability on existing spectrum while not disenfranchising viewers using ATSC 1.0 equipment, and consumer electronics manufacturers will implement the new standard in response to market demands rather than regulatory mandates.<sup>9</sup>

ONE Media's request that the Commission permit full-service broadcasters to use all vacant channels in a market as dedicated transition channels is inconsistent with the Joint Petition's local simulcasting approach that no additional spectrum is required for the voluntary ATSC 3.0 transition. DSA believes the Joint Petitioner's local simulcasting approach incorporated into the *Next Gen TV NPRM* -- that no additional spectrum is required -- was key to allowing the Commission to move as quickly as it did. The Commission should hold the broadcast TV community, including ONE Media, to its word.

## **III THE TIMING OF WHEN CHANNELS ARE CONSIDERED VACANT IS AS IMPORTANT AS THE DEFINITION OF A VACANT CHANNEL AND CAN LEAD TO SERIOUS DISRUPTION OF THE POST INCENTIVE AUCTION TRANSITION PERIOD**

The Commission rightly begins by seeking information to help it define a 'vacant channel' in the broadcast television bands. For purposes of the *Next Gen TV R&O and Further Notice*, the DSA believes the Commission's previous discussion of a 'vacant channel' in the Commission's 'Vacant Channel Proceeding' and a host of TVWS proceedings is a good place to start.<sup>10</sup> Equally as important, though, is

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<sup>9</sup> Joint Petition at 8.

<sup>10</sup> See "Amendment of Parts 15, 73 and 74 of the Commission's Rules to Provide for the Preservation of One Vacant Channel in the UHF Television Band For Use By White Space Devices and Wireless Microphones", FCC 15-68, 30 Rcd. at 6711.

when the Commission decides to take its snapshot of spectrum occupancy in the TV bands. There will be more vacant channels if the Commission performs its assessment before the Special Displacement Window opens, than if it waits until after the Settlement Window completes or when the Post Auction Transition period completes in mid-2020. The Special Displacement Window opens on April 19, 2018 and closes on May 15, 2018.<sup>11</sup> Reply comments for this proceeding are due on March 20, 2018. DSA assumes that the Commission will not complete this proceeding until after the Special Displacement Window is closed. If ONE Media's request were granted, the Commission would be hard pressed to establish a time zero for when a channel is considered a vacant channel that is not highly disruptive to Post Auction Transition process.

If the Commission decides to go forward with ONE Media's request, it will have to freeze the Special Displacement Window or alternatively, prevent eligible displaced low power broadcasters receiving a new channel in the Special Displacement Window from initiating construction of new facilities for operation on its new channel until the process for assigning channel allocations to full-service stations for new dedicated simulcast stations is developed, implemented, and the ATSC 3.0 transition completes. Some of these new full-service simulcast stations may cause low-power television and TV translator stations operating today to be displaced or may require one or more full-service stations serving that market or an adjacent market to modify its service contour for the simulcast station's service contour to fit. The Commission may have to open new filing windows for modifying construction permits. All this may cause a delay in the schedule for clearing the 600 MHz band.

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<sup>11</sup> See "Incentive Auction Task Force and Media Bureau Announce Post-Incentive Auction Special Displacement Window April 10, 2018, Through May 15, 2018, and Make Location and Channel Data Available," DA 18-124, (Released: February 9, 2018).

#### **IV THERE ARE SIGNIFICANT DIFFERENCES BETWEEN THE ATSC 3.0 TRANSITION AND THE TRANSITION FROM ANALOG TO DIGITAL TELEVISION**

ONE Media claims that the Commission should allow full power broadcasters to use the vacant channels as dedicated transition channels as it did during the transition from analog to digital television. The DSA believes there are significant differences between the two transitions.

The transition from analog to digital television was required by law, and despite several delays, the transition from analog to digital television for full-service stations had an end date.<sup>12</sup> Here, the transition from ATSC 1.0 to ATSC 3.0 for full-service stations is voluntary and currently does not have an end date. The Commission intends to address the question of when it would be appropriate to eliminate the simulcast requirement at some later time.<sup>13</sup> Until then, for all intents and purposes, these so-called dedicated transition channels will serve effectively as a permanent second channel. Such action by the Commission would unduly expands broadcasters' exclusive use spectrum holdings for free. If the Commission will be requiring an auction for new full-service broadcast television licenses once it lifts its freeze, presumably at the completion of the Post Auction Transition, a full-service station seeking a separate simulcast station can bid for a second channel it solely controls. ONE Media's proposal certainly would reduce broadcasters' costs but represents a loss of potential revenue to the U.S. Treasury.

#### **V ONE MEDIA'S PROPOSAL WILL HARM THE ROLLOUT OF FIXED TVWS IN SMALL MARKETS AND RURAL AREAS**

If the Commission permits broadcasters to use vacant channels in the repacked TV bands to establish so-called 'temporary' host facilities for local simulcasting of ATSC 1.0 and ATSC 3.0 transmissions it will harm the rollout of fixed TVWS service, particularly in smaller markets and rural areas. Given the option of simulcasting through the hosting arrangement describe in the Next Gen TV

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<sup>12</sup> 47 U.S.C. 309(j)(14)(A)

<sup>13</sup> Next Gen TV R&O and Further Notice at para. 14.

R&O and Further Notice or simulcasting through two separate transmitters, DSA believes that most full-service broadcaster will choose the latter -- especially if the spectrum is for free. The additional spectrum becomes an asset that the broadcaster can use for transmissions other than linear free over-the-air TV.

DSA believes there will still be white space spectrum in smaller metropolitan areas, smaller towns, and in rural areas after the eligible low power television and television translator obtain new channels allocation in the repacked TV bands. If the Commission goes forward with ONE Media's proposal, DSA expects that there will be a significant reduction in the amount of white spaces available in these areas for use by unlicensed devices -- unlicensed devices that can provide affordable broadband service to less densely populated areas of the country.

#### **VI THE SIMULCAST EXCEPTION FOR LPTV AND TV TRANSLATOR STATIONS COULD ALSO BE APPLIED TO A SINGLE FULL-SERVICE STATION IN AN AREA**

The Commission is permitting LPTV and translator stations to elect to transition directly to ATSC 3.0 service.<sup>14</sup> The DSA proposes that the Commission create a similar exception for full-service stations serving rural markets where the broadcaster(s) can document difficulties in locating a simulcast partner. The pluses and minuses of such an approach described by the Commission for LPTV and TV translator stations would also apply to these 3.0 orphan full-service stations.<sup>15</sup>

#### **VII CONCLUSION**

The Commission should reject ONE Media's proposal that it establish dedicated ATSC 3.0 transition simulcast channels. The Joint Petitioners in their Petition argued that the voluntary transition to ATSC 3.0 does not require additional spectrum resources. DSA agrees.

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<sup>14</sup> Id. at para. 40.

<sup>15</sup> Id. at para. 42-44.

There is no end date in sight to this voluntary transition. Under these circumstances, a grant of a dedicated simulcast transition channel cannot be considered temporary. If the Commission defines a channel as vacant prior to the completion of the Post Auction Transition period, then the Commission would be providing full service broadcasters additional exclusive use TV spectrum for free and increasing their spectrum holdings rather than auctioning it as will be required at that point in time. If given the choice of a hosting arrangement for simulcasting or a second channel for simulcasting, DSA believes that full-service broadcasters will choose the latter in almost all instances.

The further reduction of spectrum will harm the prospects of unlicensed WSDs in smaller markets and rural areas. Alternatively, the Commission should consider allowing certain full-service station to flash cut to ATSC 3.0 rather than requiring a local simulcast.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read 'K. Gude', is positioned above the printed name.

Kalpak Gude  
President