

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

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

OPPOSITION TO PETITIONS FOR RECONSIDERATION

America’s Public Television Stations (“APTS”),¹ the Corporation for Public Broadcasting (“CPB”),² and the Public Broadcasting Service (“PBS”)³ (collectively, “PTV”) respectfully oppose the Petitions for Reconsideration filed by NCTA – the Internet and Television Association (“NCTA”) and the American Television Alliance (“ATVA”) seeking reconsideration of the Federal Communications Commission’s (the “Commission”) Report and Order authorizing permissive use of the ATSC 3.0 broadcast television standard (the “Order”).⁴

¹ APTS is a non-profit organization whose membership comprises the licensees of nearly all of the nation’s CPB-qualified noncommercial educational television stations. The APTS mission is to support the continued growth and development of a strong and financially sound noncommercial television service for the American public.

² CPB is a private, non-profit corporation created and authorized by the Public Broadcasting Act of 1967 to facilitate and promote a national system of public telecommunications. Pursuant to its authority, CPB has provided millions of dollars in grant monies for support and development of public broadcasting stations and programming.

³ PBS, with its 350 member stations across the country, offers all Americans the opportunity to explore new ideas and new worlds through television and online content. Each month, PBS reaches more than 103 million people through television and over 33 million people online, inviting them to experience the worlds of science, history, nature, and public affairs; to hear diverse viewpoints; and to take front row seats to world-class drama and performances.

⁴ *In the Matter of Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930 (2017) (“Report and Order”).

Summary. Procedurally, both of the Petitions fail to meet the legal standard set forth in Section 1.429(b) of the Commission’s rules for petitions for reconsideration of final orders in rulemaking proceedings. Substantively, the Petitions’ arguments regarding HD transmissions and flash-cuts of TV translators are devoid of merit. Requiring broadcasters to “continue to transmit” in HD is a nonstarter – broadcast stations have never had a regulatory obligation to transmit in HD and it makes no sense to impose an obligation now. Similarly, requiring a waiver for TV translators to flash-cut makes no regulatory sense, given the purpose and permissible use of TV translators as set forth in the FCC’s rules.

Legal Standard. Section 1.429(b) of the FCC rules requires a justification for a petition for reconsideration. Neither NCTA nor ATVA meets this basic legal standard. NCTA’s Petition simply fails altogether to address the legal standard required by Section 1.429(b). ATVA’s Petition attempts to address the reconsideration standard by claiming: (i) broadcasters’ ongoing flexibility to adjust the format of their spectrum for HD and SD uses without prior consumer notification (in place since the DTV conversion) was a “material fact” somehow unknown to ATVA until the Order was released; and (ii) the Commission “erred” in permitting TV translator flash-cuts because the Commission rejected ATVA’s arguments against such flash-cuts. The Petitions should be dismissed pursuant to Section 1.429(l) of the Commission’s rules.

HD Service and Notice to Viewers. In their Petitions, NCTA and ATVA continue to argue against the regulatory flexibility that broadcasters have had, since the DTV conversion, to use their spectrum as best suits their needs and the needs of the local communities they serve -- including for a combination of HD, SD, multicast, and datacast purposes.⁵ NCTA repeats its

⁵ ATVA seeks to impose a new consumer and MVPD notification requirement on broadcasters that adjust their HD and SD formats for ATSC 1.0 simulcasts. There are no such notifications required for format adjustments now and there is no basis to newly impose them at this time.

argument to impose a new requirement “that broadcasters that currently provide their primary video stream in HD continue to transmit an HD ATSC 1.0 signal.”⁶ As the *Report* pointed out, the FCC’s current rules have never required broadcasters to transmit in HD;⁷ there is no basis to start doing so now. Moreover, any new ATSC 1.0 transmission requirement (for HD or multicast) would seriously jeopardize the voluntary adoption of ATSC 3.0 and its attendant public service benefits. Due to technical constraints, there is simply insufficient capacity for broadcasters to transmit all HD and multicast channels while sharing facilities, either on a shared ATSC 1.0 facility or a shared ATSC 3.0 facility.⁸

The Commission should reject the proposals of NCTA and ATVA regarding HD transmission. There is no merit in creating new HD or format-related regulatory hurdles that prevent or inhibit the transition to ATSC 3.0, given that such hurdles have no basis in law or fact. Based on the Commission’s careful balancing of interests in the Report and Order, the Next Generation broadcast television standard is poised to provide significant public service benefits through local public television stations, such as interactive children’s educational content, robust emergency alerting services, and improved accessibility measures.

TV Translator Flash-Cuts. ATVA seeks reconsideration of LPTV and TV translators’ flexibility to flash-cut without a specific waiver. ATVA’s concerns, however, appear to be directed toward commercial LPTV stations and not TV translator stations.⁹ ATVA does not seem to recognize the underlying characteristics of TV translators that make flash-cuts necessary. Because of their regulatory purpose and nature (TV translators are used to retransmit

⁶ NCTA Petition at 8.

⁷ See Report and Order at ¶ 27.

⁸ See Report and Order at ¶ 14.

⁹ See, e.g., ATVA Petition at 5–7, n.19.

service to areas which do not receive direct reception of television stations because of distance or terrain), virtually all TV translators face unique challenges with simulcasting and locating a simulcasting partner.¹⁰ That's why an exemption, as opposed to a waiver standard, was determined by the Commission to be entirely appropriate for TV translators.

Public television stations rely heavily on TV translators, individually and through networks and relays, to provide public television service to large areas of the country, including many remote and rural areas.

- In Wyoming, translators provide service to 69 percent of the public television stations' coverage area.
- Translators are relied upon by KNPB in Nevada to reach 423,000 of the 845,000 people covered by its public television service (over 50 percent), including 27 tribal communities with over 32,000 residents.
- Approximately 50 percent of New Mexico public television viewers are reached by 31 translators.
- Idaho Public Television relies on 43 translators to provide public television services to viewers across the state of Idaho.

TV translators – particularly public TV translators – will be the means by which some of the most rural parts of America will experience the public interest benefits of ATSC 3.0 and enjoy the enhancements that public television hopes to make available to all communities. It makes no sense to revisit the considered determination of the recently adopted Report and Order and pile on a completely unnecessary regulatory barrier (i.e., individual simulcast waivers) to TV translator stations that wish to provide the benefits of ATSC 3.0 to rural Americans.

¹⁰ See 47 C.F.R. Sections 74.731(a), (b).

Conclusion. For the reasons detailed above, PTV respectfully opposes the Petitions for Reconsideration filed by NCTA and ATVA, and PTV urges the Commission to dismiss the Petitions.

Respectfully submitted,

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April 13, 2018