

**Before the
Federal Communications Commission
Washington, DC. 20554**

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

**COMMENTS OF THE
LPTV SPECTRUM RIGHTS COALITION
MAY 8, 2017**

The LPTV Spectrum Rights Coalition¹, (“the Coalition”), welcomes the FCC’s Next Gen rulemaking. (“the Rulemaking”), as it signals the hopeful beginning of a new era of IP-based broadcast television content delivery, and which has the promise of assisting LPTV stations to become relevant in the daily lives of Americans. The rulemaking, as drafted in the NPRM, could also however, severely limit the pacing of new major LPTV Next Gen initiatives, which are currently positioning themselves to rapidly roll out the ATSC 3.0 standard. The new regulatory burden of a local simulcast, would literally make it financially infeasible for a large majority of stations to convert in a timely manner.

The NPRM is organized around the initial Petition from primary broadcasters, which was developed without consultation from the Class A, LPTV, and TV translator industry. Public comments from the industry were also used to craft the NPRM, but it retain a fatal flaw, the requirement for local simulcasting. To require both a 1.0 and 3.0 streams for the same content will impose a new regulatory burden on secondary broadcast services, akin to the “double-build” problem encountered during ending of analog conversion during the pre-auction period. To even put the simulcast proposal into the NPRM as a requirement for the “victims of the incentive auction” is a gross regulatory overreach, and is insensitive to the significant financial burdens displaced LPTV and TV translator licensees are faced with during the next 4 years.

The timing of this NPRM is also in conflict with the new initiative from FCC Chairman Pai, the “Modernization of Media Regulation Initiative”, which will be part of the May 2017 Commissioner’s agenda. This Initiative is at odds process wise with the NPRM. The NPRM attempts to regulate processes to govern a major industry tech transition, while all media rules are being reviewed. These two FCC actions are in conflict with each other, and while both have a time imperative, they need to be coordinated. With a target date for the Next Gen rulemaking to be completed by the end of this calendar year, the comments from media rules initiative need to be incorporated in it. And with the Media rules review needing to be done to be incorporated with anticipated other major media rule changes, coordination of these FCC processes is essential.

¹ The LPTV Spectrum Rights Coalition, LLC, is a research, education, and lobbying effort of 100’s of Class A, LPTV, and TV translator with over 1500 FCC licensees and permittees. Since 2013 it has been providing key data to illustrate the impacts from the incentive auction and repack will have on the almost 10,000 already issued licenses and permits.

Our Coalition recommends that Class-A and LPTV stations be allowed to “flash-cut” to a 3.0 service without any legacy ATSC 1.0 legacy simulcast. And the same for newly licensed LPTV which are just building out a new construction permit. We recommend that the licenses making a flash-cut should be required to provide a new AWARN (advanced warning system) service instead. These changes to allow a flash-cut and the requirement to provide AWARN as a substitute for the LPTV EAS obligation are pro-innovation and will help to kick-start the AWARN service, as well as provide a financially feasible path for LPTV next gen services adoption.

We remind the Commission, that LPTV is very lightly regulated, and as close to a free market service as we can get without total flexible use rights. We have no national ownership limits, no cross media ownership restrictions, and no programming requirements other than our EAS obligation, and any free to air content stream we want in the current ATSC 1.0 standard. Re-regulating LPTV, and adding the considerable financial, technical, and operational requirements of a local simulcast, is totally against the spirit of a new free market oriented FCC, and does not encourage innovation, but suppresses it.

LPTV has been first to test OTA 4K, first to test OTA ATSC 3.0, first to test an OTA SFN, first to test a multiple OTA station ATSC 3.0 test, and recently provide the official OTA ATSC 3.0 feed for the 2017 NAB show. We recommend that local simulcasting not be added to the lightly regulated LPTV licensee, and to only require a flash-cut, and AWARN service as a substitute for our EAS obligation, and for that AWARN stream, to be our only programming requirement. Entirely new business models and product innovation are already in the works for an LPTV Next Gen TV station. The Commission should not ADD regulatory burden, but decrease it as much as possible. And it should do so in coordination with the Commissions’ Modernization of Media Regulation Initiative.

Any rulemaking the FCC conducts related to the LPTV industry, will impact literally every TV market in the country, as LPTV is everywhere the primaries are, and in many places where they are not, such as many 100’s of small rural communities. Additional Coalition research identified that these 8,800 licenses and permits are authorized to broadcast from about 2,600 unique locations, of which, about 900 only have 1 license or permit. The local simulcasting requirement is not even feasible in these markets.

Any rulemaking the FCC conducts related to the LPTV industry, has to take into account the impacts from the auction, repacking, and adjacent market interference impacts to these approximately 8,800 licenses and permits. The Coalition has preliminary estimates of more than 3100 displacements from the auction band clearing from UHF 38-51. And an additional 1000+ displacements from the primary relocation repacking from VHF 2- UHF 36. The impacts from adjacent market interference are not yet fully understood. The greatest impacts from the auction, repacking, and adjacent market interference will be measured in the costs of compliance to move when requested. The range of these costs are from \$50,000 to \$600,000 per station, depending on location, services, tower changes etc. The collective costs to the industry could be in the many \$100’s of millions. It is unreasonable for the FCC to add the additional financial burden of simulcasting on our industry!

LPTV industry innovators have since 1999 been advocating new Next Gen-like services, with the passage in Congress of the “LPTV Digital Data Services Pilot Project”², and the submission of over two

² FCC 01-137, “The LPTV Digital Data Services Pilot Project (DDSA) mandates that the Commission issue regulations establishing a pilot project pursuant to which specified Low Power Television (LPTV) licensees or permittees can provide digital data services to demonstrate the feasibility of using low-power television stations to provide high speed wireless digital data service, including Internet access, to unserved areas.

thousand new LPTV applications in the 2009 rural filing window specifically to build out flexible use services with LPTV. If it was not for the long five plus years of the incentive auction process, and extreme limitations and financial burdens of displacement, the LPTV industry would already be providing relevant next gen services to communities all across the country. The Commission should not attempt to add new limitations on the rapid and innovative roll-out of all types of Next Gen business models.

LPTV does not get any of the corporate welfare the primary stations do, and will be financially burdened by the auction displacement process for years to come. Never mind the long process of finding new channel assignments. All at our own cost, with no funds from the Federal government, so that we can provide programming and EAS to our communities. The simulcast requirement is not needed for LPTV, and it would be yet another financial burden and asked for government regulation and intrusion into business affairs. It is ludicrous for the FCC to now worry about LPTV 1.0's viewers, when tens of millions of them have been willfully ignored, never studied, nor any impacts analysis done about them in the incentive auction process.

The FCC has always had the discretion to study the impacts to LPTV viewers in the auction, but not a one of the current Commissioners, Chair, Video Division, nor Media Bureau staff has ever requested that the FCC conduct any impact analysis at all. So why now in this NPRM is the FCC so worried now about our 1.0 viewers?

Allow LPTV to flash cut to 3.0, and transfer just one regulatory burden on us, the early adoption and roll out of AWARD services to our communities of license. Do not re-regulate us and add further restrictions on what we can do. To do so will slow down in the Courts the entire Next Gen roll out.

Respectfully submitted

_____/signature/_____
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