

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

In the Matter of)	
)	
Upgrade to the Next Generation)	GN Docket No. 16-142
Digital Television Service)	
)	
To: The Commission)	

REPLY COMMENTS OF PEARL MOBILE DTV COMPANY LLC

The more than 25 comments filed in response to the Commission’s Public Notice regarding the voluntary implementation of the additional broadcast transmission standard developed by the Advanced Television Systems Committee (“ATSC 3.0” or “Next Generation TV”) reflect a consensus on one important issue: Next Generation TV offers tremendous benefits to consumers. Broadcasters, technology and infrastructure developers, public interest groups, and cable networks acknowledge the innovative nature of Next Generation TV, and the multiple viewing and other improvements it promises consumers.¹ In light of this consensus and its own experience, Pearl Mobile DTV Company LLC (“Pearl”) requests that the Commission promptly

¹ See, e.g., Comments of the Public Broadcasting Service and the Corporation for Public Broadcasting, GN Docket No. 16-142, at 3-6 (filed May 26, 2016) (“There are four principal public service benefits of ATSC 3.0—interactive educational children’s programming, public safety, accessibility, and visual enhancements. . .”); Comments of American Tower Corporation, GN Docket No. 16-142, at 3 (filed May 26, 2016) (“Next Generation TV will provide viewers a more immersive and enjoyable viewing experience on both home and mobile screens and will set the stage for future enhancements.”); Comments of Public Knowledge, Common Cause, and Open Technology Institute at New America, GN Docket No. 16-142, at 1 (filed May 26, 2016) (“Next-generation television using the ATSC 3.0 standard promises a wealth of new consumer-friendly features, including sharper pictures, better mobile viewing, improved emergency alerts, new opportunities for community engagement and novel interactivity with over-the-air television viewers.”); Comments of AT&T, GN Docket No. 16-142, at 1, 3 (filed May 26, 2016) (“Next Generation TV will . . . support an enhanced television viewing experience” and AT&T “welcome(s) innovation by other parties, particularly when consumers are the beneficiaries.”).

move forward with a Notice of Proposed Rulemaking (“NPRM”) on adopting the Next Generation TV standard, and allow broadcasters the option of using the physical layer of this new standard while they continue to deliver current-generation DTV broadcast service to their communities.

Pearl, a group of broadcast companies that strongly supports the Joint Petition for Rulemaking filed by APTS, AWARD Alliance, CTA, and NAB, files these Reply Comments to address certain questions raised by commenters regarding (1) the impact of the voluntary transition to Next Generation TV on MVPDs; (2) how certain elements of the transition will affect consumers; (3) whether Next Generation TV may impose additional costs; and (4) non-germane issues raised by parties seeking to leverage the petition for their own regulatory ends. None of these questions poses a reason for the Commission not to issue a focused, straightforward NPRM by October 1, 2016.

I. Implementing Next Generation TV Will Not Require MVPDs to Bear Any New Expense

Multiple commenters stressed that the voluntary transition to Next Generation TV should not force additional costs on MVPDs. It will not. As AT&T and the National Cable & Telecommunications Association (“NCTA”) observe, MVPDs will not be obligated to carry Next Generation TV signals during the transition period.² Must-carry obligations will not require MVPDs to purchase new equipment at this time, since they will continue to receive signals in the current digital standard via simulcasting. If MVPDs would like to offer their customers the improved picture and features broadcasters can provide using the Next Generation

² See Comments of AT&T, GN Docket No. 16-142, at 2 (filed May 26, 2016); Comments of the National Cable & Telecommunications Association, GN Docket No. 16-142, at 5 (filed May 26, 2016).

TV standard, MVPDs may obtain those rights and resolve any costs that may arise through retransmission consent negotiation, the same way other cost issues between broadcasters and MVPDs long have been addressed.

Multiple parties requested clarification on several rules that may require MVPDs to carry Next Generation TV signals, including (1) whether DBS providers whose satellite capacity cannot account for Next Generation TV would violate the carry one, carry all rules by not carrying all Next Generation TV signals in a market, and (2) whether MVPDs who seek to carry the ATSC 1.0 simulcast of a must-carry station that is transmitting in the Next Generation TV standard would violate the must-carry rules. Neither of these questions should pose issues for MVPDs. A station can negotiate for Next Generation TV satellite carriage without requiring the whole market to carry the Next Generation signal; carriage by the DBS provider of a Next Generation TV feed in that context would not violate the carry one, carry all rule. And as addressed above, MVPDs can satisfy their must-carry obligations by carrying the 1.0 simulcast of any station during the transition period.

II. Broadcasters Are Committed to a Consumer-Friendly Transition

While multiple parties seek additional clarification on the phase-out of ATSC 1.0, the marketplace, rather than petitioners, other parties or the Commission, should answer this question. Broadcasters should simulcast Next Generation TV and signals in the current digital format for the foreseeable future to ensure that viewers owning legacy receiving equipment will not be disenfranchised. At some point in the future, viewers will own Next Generation TV reception equipment or converters, and the legacy standard will no longer be essential. But this will be years down the road.

During this period of simulcasting, broadcasters will maintain the highest quality signal possible. Signals simulcast in ATSC 1.0 will comply fully with current Commission rules on

signal quality. Because the transition will be accomplished without additional spectrum, in some cases there may be choices on the particular type of ATSC 1.0 transmission that will be appropriate (for example, a station transmitting in 1080i may move to 720p). But the FCC has already permitted broadcasters to channel share in the auction context and beyond, and technology has advanced even since that grant of authority. Advances in coding and content multiplexing may improve broadcasters' ability to transmit multiple HD signals from a single facility.

III. Timing the Adoption of Next Generation TV with the Post-Spectrum Auction Channel Repack Will Significantly Reduce Equipment Costs

Although our analysis and discussions with equipment manufacturers indicate that Next Generation TV equipment and simulcast equipment will not be unduly costly for broadcasters or MVPDs, the Commission can further reduce potential costs by acting swiftly enough to permit implementation of Next Generation TV-capable equipment during the post-auction repacking process. The post-auction repack gives broadcasters a chance to upgrade to the new standard seamlessly for the benefit of their communities. The all-in costs for a typical station conversion are estimated to run an average of \$450,000. But importantly, many of the stations that will be repacked as a result of the spectrum auction will require some of the new equipment necessary for the conversion. It will cost little more for a broadcaster to build to the new standard than to the old standard. As the American Tower Corporation states, approving Next Generation TV now will allow stations to minimize costs by combining upgrades. The auction channel repack is the ideal time to install future-ready equipment that will permit the deployment of Next Generation TV.³

³ See Comments of American Tower Corporation, GN Docket No. 16-142, at 4 (filed May 26, 2016).

An additional benefit of the Next Generation TV standard is that it is an IP-based technology. This will smooth the transition to the new standard, as problems experienced during the transition will be able to be addressed quickly and cost-effectively by software upgrade, rather than requiring expensive new equipment.⁴ Once the standard is in place, further improvements will be able to be rolled out in the same manner, easily providing more benefits to viewers.

IV. Issues Raised by Certain Commenters Should Not Slow Down the Commission's Process

A number of commenters seek to leverage the petition for their own regulatory ends. The Commission should ignore these comments, as following each request would stifle innovation by bogging the Commission down in irrelevant inquiries and disputes that bear no relationship to the scope of the petition.

First, the Commission should ignore DISH's efforts to inject its retransmission consent agenda into this proceeding. DISH seeks to condition a broadcaster's use of Next Generation TV on two non-germane factors: (1) that broadcasters be required to serve their entire DMA, and (2) that broadcasters be *required* to support technological advances such as 4K.⁵ The first proposal is untenable and seeks to change decades of consistent broadcast regulation. Broadcast television stations have been licensed to serve a community since their inception, and have never been licensed to serve a Nielsen DMA.⁶ Completely changing the way broadcasters are licensed would impose significant burdens on the Commission and the industry. It would require the reallocation of significant spectrum to broadcasters, undermining the incentive auction's

⁴ See Comments of GatesAir Inc., GN Docket No. 16-142, at 2-3 (filed May 26, 2016).

⁵ See Comments of DISH Network, LLC, GN Docket No. 16-142, at 5-6 (filed May 26, 2016).

⁶ See, e.g., 47 C.F.R. § 73.622.

potential for success and the Commission's repacking methodology. The proposal is clearly aimed at undermining broadcasters' retransmission consent rights, and is not germane to this proceeding. DISH's second proposal is an effort to stifle the innovation and competition that can result from continuing to empower the marketplace to determine service offerings. All broadcasters seek is permission to transmit using a new standard that will allow them to pioneer new developments and respond to marketplace demands. Imposing specific, fixed technology-based requirements misunderstands the nature of innovation.

Second, the American Cable Association ("ACA") claims that the Commission should move exceedingly slowly in considering Next Generation TV, despite the fact that broadcasters solely seek Commission consent to implement that standard as an optional, additional service to their communities.⁷ ACA seeks to slow the deployment of a competitive, innovative new technology, and advances no reasoned argument for artificially slowing the regulatory process. As described earlier, any concerns MVPDs have about carriage and other issues can be addressed quite expeditiously by the Commission in an NPRM, and adding more delay to the process will only serve to prevent a highly demanded new technology from being made available to the American public.

Finally, the Commission should resist Public Knowledge's call to re-examine broadcaster public service obligations as part of this proceeding, as that would unnecessarily expand the scope of a narrow and straightforward request to approve a new optional transmission standard.⁸ Public Knowledge's proposal is out of place in this proceeding, given that broadcasters here are

⁷ See Comments of American Cable Association, GN Docket No. 16-142, at 5-6 (filed May 26, 2016).

⁸ See Comments of Comments of Public Knowledge, Common Cause, and Open Technology Institute at New America, GN Docket No. 16-142, at 7-15 (filed May 26, 2016).

not seeking new spectrum or government subsidies that could act as a rationale for altering their public interest obligations. Broadcasters already are among the most heavily regulated of spectrum users, with significant public interest obligations that other licensees do not have. Imposing new regulatory obligations on broadcasters solely because they seek to provide a superior (and optional) transmission service is contrary to the public interest, would stifle innovation and depress investment, and will ultimately leave broadcasters frozen in time. Just as it would be unreasonable to consider imposing new regulatory obligations on wireless carriers solely because they seek to implement 5G in addition to LTE, the Commission should not re-examine broadcasters' public interest obligations because they seek to do more for their communities of license with the 6 MHz block they already have.

V. Conclusion

Commenters from across the television landscape agree that adopting the Next Generation TV standard and permitting stations to deploy it on a voluntary basis will provide consumers with substantial viewing and public safety benefits. Acting now will allow stations to use the opportunity of the spectrum auction repack to upgrade their equipment and bring these benefits to their communities as soon as possible. Having been offered no good reason to delay, Pearl urges the FCC to promptly issue an NPRM on this issue so that parties that seek to can begin the process of moving television into the future.

Respectfully submitted,



Anne Schelle
Managing Director
PEARL
850 Tenth Street, N.W.
Suite 312N
Washington, DC 20001

Kurt Wimmer
Gerard J. Waldron
Hannah Lepow

COVINGTON & BURLING LLP
850 Tenth Street, N.W.
Washington, DC 20001

Counsel for Pearl

June 27, 2016