

**Before the
Federal Communications Commission
Washington, D.C. 20554**

Joint Petition for Rulemaking of)
America’s Public Television Stations,)
the AWARN Alliance, the Consumer)
Technology Association, and the National) GN Docket No. 16-142
Association of Broadcasters Seeking to)
Authorize Permissive Use of the “Next)
Generation TV” Broadcast Television Standard)

REPLY COMMENTS OF HEARST TELEVISION INC.

Hearst Television Inc. (“Hearst”)¹ files these reply comments in support of the Joint Petition for Rulemaking (the “Joint Petition”)² in the above-referenced proceeding. Hearst joins various other broadcast companies and other parties across diverse industries in urging the Commission to issue a *Notice of Proposed Rulemaking* to consider adoption of a central component of the “Next Generation TV” ATSC 3.0 transmission standard and approval for television stations to utilize the new standard while facilitating in each local market a continuation of ATSC 1.0 service during an appropriate transition period.

Transition by the nation’s broadcast television stations to an ATSC 3.0 transmission standard would greatly enhance the range of services local broadcast stations provide to viewers

¹ Hearst is an industry leader in innovation that owns and operates 32 full-power television stations, including two stations that operate as satellite stations. Hearst’s stations provide highly localized, award-winning service to approximately 21 million U.S. television households. Hearst is also a member of Pearl, which commissioned the study attached to the Joint Petition, and which is self-described as “a venture of U.S. broadcast companies with a shared interest in exploring forward-looking broadcast opportunities, including innovative ways of promoting local broadcast TV content and developing digital media and wireless platforms for the broadcast industry.” Comments of Pearl Mobile DTV Company LLC, GN Docket No. 16-142 (filed May 26, 2016), at 1.

² Joint Petition for Rulemaking submitted by America’s Public Television Stations, AWARN Alliance, Consumer Technology Association, and the National Association of Broadcasters, GN Docket No. 16-142 (Apr. 13, 2016) (“Joint Petition”).

without an allocation by the Commission of funds or spectrum and without burdening MVPDs. From a timing perspective, Commission action enabling the initial transition to ATSC 3.0 to coincide during the repacking of local stations following the Incentive Spectrum Auction would enable consumers to enjoy ATSC 3.0's benefits earlier, while meaningfully reducing stations' equipment costs. Accordingly, Hearst joins NAB, Pearl, and others in respectfully requesting that the Commission issue an appropriate *Notice of Proposed Rulemaking* by October 1, 2016.

The Commission should facilitate voluntary adoption and deployment of ATSC 3.0 but not mandate it. Hearst supports the local simulcasting approach proposed by the Joint Petitioners under which a station could voluntarily choose to transmit its programming using ATSC 3.0 and would, for an appropriate transition period, arrange for simultaneous transmission of its primary stream by another local station using the existing ATSC 1.0 standard, and in so doing, provide a seamless transition with no disruption of service to viewers.

Issuance of a *Notice of Proposed Rulemaking* to consider and adopt rule changes necessary to permit deployment of ATSC 3.0 to achieve voluntary, market-driven, local simulcasting arrangements of this kind is the appropriate next step in unleashing ATSC 3.0's remarkable potential and in enabling the American public to realize the technological and service benefits that ATSC 3.0 offers.³

³ See, e.g., Comments of Pearl Mobile DTV Company LLC, GN Docket No. 16-142 (filed May 26, 2016), at 2-6 (summarizing results of study conducted by Frank N. Magid Associates demonstrating consumer demand for ATSC 3.0).

I. Next Generation TV Will Provide Extraordinary Benefits to Consumers

Next Generation TV offers numerous benefits to consumers. Various commenters have pointed out that the ATSC 3.0 transmission standard would foster a dramatically enhanced viewing experience, increase emergency alert capability, and allow reliable mobile broadcasting.⁴ The following are but some of the service enhancements Next Generation TV offers for viewers⁵:

- Improved robustness of over-the-air signals, resulting in greater signal reception by viewers on fixed and mobile receivers;
- Next generation video quality, including the potential for 4K video and HDR (high dynamic range) offering an immediately noticeable expansion of light/color contrast, wider color gamut, and higher frame rates;
- Opportunities for viewers to select multiple and customized views and to engage in interactive experiences;
- Substantial audio improvements, including an immersive audio experience and the opportunity to personalize audio;
- Improved availability of broadcast program content on mobile devices;
- Significant advances in emergency alerting, including receiver “wake up” functionality, localized alerting, and media-rich emergency content;
- More efficient emergency communications between first responders, public safety officials, local television news media, and the public;
- The ability to target news, weather, public affairs, educational, and sports programming on a hyper-local basis to better meet the interests and needs of communities and individuals; and
- Integration of the broadcast platform with digital platforms (using Internet Protocol) to provide consumers and broadcasters with new opportunities for communication, including new and previously untapped datacasting applications.

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

⁵ See Joint Petition at ii-iii, 4-6.

Yet, the above impressive list of consumer benefits are just the beginning of the technical and service enhancements that may ultimately be offered by the new transmission standard. Indeed, the service model proposed for Next Generation TV is designed to permit broadcasters to provide increasingly varied, diverse, and yet-to-be developed, program services.⁶ But the full potential of service enhancements that ATSC 3.0 offers will only be realized if the Commission enables broadcasters to adopt and deploy the technology. The Joint Petition's proposed regulatory structure, permitting market-driven, voluntary adoption of ATSC 3.0, will enable these benefits to become a reality.

II. The Commission Should Act Quickly to Permit the Voluntary, Market-Driven Deployment of ATSC 3.0 to Begin as Soon as Possible, Concurrent with the Post-Auction Repacking

The Commission should move swiftly to allow the market-driven transition to Next Generation TV to begin in conjunction with the post-auction channel repacking by issuing a *Notice of Proposed Rulemaking* by October 1, 2016. As the House Appropriations Committee stated last week, Commission authorization of the ATSC 3.0 standard in conjunction with the repacking of displaced stations following the current spectrum auction would result in significant economic efficiencies:

The Committee urges the Commission to move forward with the ATSC 3.0 standard as expeditiously as possible so that television broadcasters may purchase the facilities they need without wasting limited funds on outdated unnecessary equipment.⁷

Contrary to the transition from analog to digital, neither broadcasters nor any other stakeholder should be forced by regulatory fiat to adopt and use ATSC 3.0. Rather, a voluntary

⁶ See Joint Petition at 12.

⁷ Report 114 of the House Committee on Appropriations, 114th Cong. 2d Session at 79-80 (2016).

rollout of ATSC 3.0 will allow stakeholders the freedom to experiment, to innovate, and to improve Next Generation TV transmissions and services.

Some stations are prepared to embrace the new standard and begin the transition upon Commission adoption of the necessary rules. In acting now, and in timing the adoption of Next Generation TV with the post-auction channel repack, the Commission would inject regulatory certainty into a potentially disruptive broadcast service environment. The flexibility of the Next Generation TV standard, coupled with the new transmission architecture, would serve to offset the disruption and signal coverage challenges that post-auction repacking may create.⁸ Deploying the new standard on this timeline would allow stations to reduce their costs by combining otherwise expensive equipment upgrades. Broadcaster confidence in the future of ATSC 3.0 will allow displaced stations to acquire, invest in, and install new Next Generation TV compatible equipment.⁹ This would allow the transition to move forward; regulatory uncertainty would delay it.

The proposed voluntary transition to Next Generation TV would not impose additional costs on MVPDs during the transition as they will have no “must-carry” obligation for ATSC 3.0 signals. MVPDs will not be required to buy new equipment to meet their must-carry obligations because they will continue to receive signals that are simulcast in the ATSC 1.0 standard during the transition period. To the extent that additional costs may be incurred by MVPDs that elect to

⁸ See Comments of Sinclair Broadcast Group, GN Docket No. 16-142 (filed May 26, 2016), at 2.

⁹ See, e.g., Comments of Gray Television, Inc., GN Docket No. 16-142 (filed May 23, 2016), at 4 (“After the incentive auction, stations will be rushing to modify their facilities as part of the require[d] repack process, this will be a crucial window for stations that intend to embrace ATSC 3.0. Delayed authorization to deploy ATSC 3.0 may leave the post-auction investments made by these stations stranded.”).

offer Next Generation TV to their subscribers, the decision to incur those costs and embrace the benefits of this new technology would be solely within the discretion of each MVPD.

III. The Joint Petition’s Local Simulcast Approach Will Ensure a Consumer-Friendly Transition, Incentivize Broadcasters, and Allow the Market to Dictate Implementation of ATSC 3.0—and the Sunset of ATSC 1.0

The Joint Petition proposes a local simulcasting scheme under which, in each DMA, Station A, for example, could elect to broadcast in an ATSC 3.0 format and enter into an agreement with Station B to broadcast Station’s A’s programming in an ATSC 1.0 format, while Station A would broadcast Station B’s programming in an ATSC 3.0 format.¹⁰ Agreements of this kind in each local market would assure uninterrupted service to viewers (and MVPD access to legacy ATSC 1.0 transmissions as well) on a spectrum-efficient basis without requiring the Commission to provide second television channels as it did during the digital transition.¹¹ And, as was the case during the initial analog-to-digital transition, uninterrupted viewer access to local news, emergency and public safety, public affairs, sports, and entertainment programming upon which viewers have come to rely would be assured during the transition period.

If the Commission embraces a local simulcasting model, reciprocal carriage should be optional, not mandatory.¹² There may be instances where a station is amenable to serving as an ATSC 1.0 “host” station but is not prepared to move forward with implementing ATSC 3.0 itself. Likewise, the question of when ATSC 1.0 would be phased out should be determined by local

¹⁰ See Joint Petition at 17-18.

¹¹ See Joint Petition at 18.

¹² See, e.g., Comments of Gray Television, Inc., GN Docket No. 16-142 (filed May 23, 2016), at 3.

market forces, which will likely differ in different geographical areas. In short, reciprocity both ways should be permitted, not mandated.

Further, the Commission should adjust its rules so that regulatory responsibility for all content in ATSC 1.0 and ATSC 3.0 simulcast signals during the transition period remains with the licensee of the originating station, rather than the transmitting station.¹³ In this respect, each originating station would be solely responsible for complying with the Commission's content regulations—*e.g.*, political broadcasting, children's programming, closed captioning, video description, sponsorship identification, advertising content, indecency, *etc.* and potential civil liability arising from the content of the originating station should remain with the originating station as well. Compliance with the Commission's "technical" rules, however, raises different regulatory responsibility issues. It would appear appropriate to place regulatory responsibility for compliance with those rules on each respective transmitting station. These are among the various issues that warrant full exploration and debate in a rulemaking proceeding.¹⁴

Addressing these and other pertinent issues in a rulemaking proceeding will enable those stations considering a transition to ATSC 3.0 to do so with a full understanding of their obligations and their areas of potential liability.

¹³ *See, e.g.*, Comments of the Public Broadcasting Service and the Corporation for Public Broadcasting, GN Docket No. 16-142 (filed May 26, 2016), at 6-7.

¹⁴ The Commission should also clarify that local simulcasting arrangements as described above do not implicate the local ownership rules. *See* 47 C.F.R. § 73.3555. In addition, the Commission should allow noncommercial stations to serve as hosts for local commercial stations. *See, e.g.*, Comments of the Public Broadcasting Service and the Corporation for Public Broadcasting, GN Docket No. 16-142 (filed May 26, 2016), at 6-7.

Conclusion

For these reasons, Hearst respectfully requests that the Commission (1) promptly move forward with a *Notice of Proposed Rulemaking* by October of this year, (2) allow television stations, voluntarily, to begin transitioning to the Next Generation TV transmission standard, and (3) amend its rules as necessary to facilitate a market-based deployment of the ATSC 3.0 standard, including voluntary simulcasting arrangements to maintain ATSC 1.0 service to viewers, and thereby unleash ATSC 3.0's many consumer benefits as soon as possible.

Respectfully submitted,

HEARST TELEVISION INC.

/s/ Wade H. Hargrove

Wade H. Hargrove

David Kushner

Timothy G. Nelson

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.
Wells Fargo Capitol Center, Suite 1700
150 Fayetteville Street
Raleigh, North Carolina 27601
Telephone: (919) 839-0300
Facsimile: (919) 839-0304

Counsel for Hearst Television Inc.

June 27, 2016