

ROSENMAN & COLIN

1300 19TH STREET, N.W., WASHINGTON, D.C. 20036

TELEPHONE (202) 463-7177

TELECOPIER (202) 429-0046

NEW YORK OFFICE
575 MADISON AVENUE
NEW YORK, NY 10022-2585
TELEPHONE (212) 940-8800

SAMUEL I. ROSENMAN (1896-1973)
RALPH F. COLIN (1900-1985)

RECEIVED

HOWARD J. BRAUN

November 30, 1988

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Federal Communications Commission
Office of the Secretary

Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

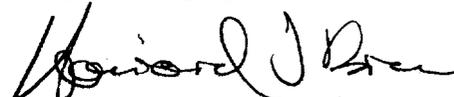
Re: Advanced Television Systems,
MM Docket No. 87-268

Dear Ms. Searcy:

Enclosed herewith for filing, on behalf of our client,
Channel America LPTV Holdings, Inc. are the original and five
copies of "Comments of Channel America LPTV Holdings, Inc.".

Please direct all inquiries and communications concerning
this matter to Heidi P. Sanchez or the undersigned.

Very truly yours,


Howard J. Braun

Enclosure

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

In the Matter of)
)
Advanced Television Systems and)
Their Impact on the Existing)
Television Broadcast Service)
)
Review of Technical and)
Operational Requirements:)
Part 73-E, Television Broadcast)
Stations)
)
Reevaluation of the UHF)
Television Channel and Distance)
Separation Requirements of)
Part 73 of the Commission's Rules)

MM Docket No. 87-268

**COMMENTS OF
CHANNEL AMERICA LPTV HOLDINGS, INC.**

CHANNEL AMERICA LPTV HOLDINGS, INC. ("Channel America"), by its attorneys, hereby comments on the Tentative Decision and Further Notice of Inquiry in the above-captioned docket released September 1, 1988.

I. Introduction

Channel America is a leader in the emerging Low Power Television (LPTV) industry. It is a publicly traded company, with numerous LPTV authorizations throughout the United States. As of this date, Channel America is the licensee of six low power TV stations ("LPTV") in Virginia, Maine, West Virginia, and New York; and is the permittee of LPTV stations in 14 communities in New Jersey, Texas, Ohio, Illinois, Michigan, Nevada, Nebraska, Louisiana, Oregon, New York, Utah, Georgia, and Florida.

In addition, Channel America has obtained options to acquire or agreements to operate an additional 12 LPTV permits or licenses in New York, West Virginia, Illinois, South Carolina, Massachusetts, Mississippi, Minnesota, California, Missouri, Florida, and North Carolina, and has reached similar agreements to acquire or operate potential stations in 12 other communities where lotteries have not yet been held, or where tentative selections have been made but no construction permit yet issued.

Thus, Channel America is already the authorized owner of 20 LPTV facilities, it has acquired rights to purchase or operate 12 other LPTV facilities where authorizations have been issued and an additional 12 others where authorizations have not yet been issued. Channel America is also aggressively pursuing other LPTV acquisition possibilities to extend its potential audience reach, which it currently expects will ultimately include in excess of 15 million people. It has worked hard and diligently to become a national leader in an emerging LPTV industry that is finally beginning to function as a viable alternative to full-power TV broadcasting. The recent strides toward success taken by Channel America and others have been facilitated in large part by FCC policies and procedures that have enabled low power TV broadcasters to more readily obtain construction permits and, when necessary, to modify their authorizations to alternative channels in order to provide service to the public.

As a leader in the burgeoning LPTV industry, Channel America is thus seriously and vitally concerned that the Commission's efforts to expedite the initiation of advanced television ("ATV") may have an adverse and perhaps devastating impact on LPTV, an industry that, with the Commission's valuable assistance, has been desparately struggling for almost a decade to become a viable medium and an alternative source of information and entertainment competitive with full power television. It is this concern about the future success that underlies Channel America's comments herein which urge the Commission to proceed cautiously with the introduction of ATV to avoid dealing a potential death-knell devastating blow to the emerging LPTV industry.

II. Argument

Channel America believes that the most difficult decision the Commission will have to make as it undertakes regulation of ATV is how best to assist the institution and growth of ATV with a minimum of disruption to existing TV broadcasters or consumers. Particularly during a period while the technology of ATV is still being explored and alternative channel utilization schemes are under consideration, the Commission is faced with a most difficult choice between permitting the greatest possible range of ATV experimentation, regardless of the level of receiver compatibility and channel capacity, in order to allow for development of a variety or an optimal system of ATV; and protecting against disruption to or displacement of existing broadcasters, including LPTV broadcasters, or the inability of consumers to continue to

receive NTSC transmissions while also gaining the opportunity to receive ATV signals, if possible, on their existing television receivers. Especially during a transition period, before the industry self-selects or the Commission mandates standards for ATV channel utilization, the choices the Commission makes as it regulates or declines to govern the ATV industry will have profound impacts on consumers, existing broadcasters, and the development of the ATV industry.

Channel America strongly urges the Commission to proceed deliberately and cautiously, and to adopt as its most important and primary goal the preservation of the existing broadcasting industry, including LPTV broadcasting. Importantly, any Commission policy permitting use of more than six MHz (as used by NTSC systems) for ATV, either on an interim or a permanent basis, is likely to have severe and potentially disastrous ramifications for existing broadcasters. In communities, including many major markets, where there is a shortage of TV channel availabilities, permitting experimental or permanent use of nine or twelve MHz by ATV broadcasters would inevitably have one or two undesirable results: consumers in major markets like Washington, which lack spectrum availability, would be deprived either of the improvements in reception that ATV could deliver or of the variety of media voices they currently receive and may soon be receiving as more LPTV operators are beginning to serve their communities. As long as reception is clear, the First Amendment and the Communications Act both mandate that the Commission's highest goal must

remain the broadest possible dissemination of diverse media voices, not the achievement of the highest possible technical standards without adequate concern for the attendant economic or First Amendment consequences.

Channel America thus urges the Commission to require that ATV must be limited to use of the same six MHz that are currently used by NTSC systems. While it is far too early to adopt a standardized system, a clear directive from the Commission that no added spectrum may be utilized for ATV will require the developing technology to dedicate its efforts to achieving the greatest possible standards of quality without reducing the availability of media voices. Although it would be desirable for the United States to join in establishing an international ATV standard, that already appears to be politically unachievable, and, at a minimum, the FCC should ensure that this country establish a single ATV standard that is domestically uniform and that protects the democratic values of this nation.

A decision by the Commission to prohibit use of more than six MHz for ATV transmissions may conceivably have two negative results. First, not all of the technical benefits that might be achieved through use of more spectrum may be capable of being achieved on a six-MHz system. However, published reports suggest that significant improvements over NTSC transmissions have already been developed using no added spectrum, and additional advancements may well be achieved if research is concentrated on six-MHz utilization. Moreover, the economic costs entailed in

expanded spectrum utilization may well not be willingly borne by consumers who may be fully satisfied by less expensive alternative technologies.

Second, use of six-MHz ATV transmissions may delay availability of the improved reception to consumers whose existing receivers are not now capable and might not be able to be retrofitted to be capable of receiving ATV. Those consumers would not enjoy the benefits of ATV until they bought new televisions and/or video recorders.

In light of these facts, Channel America urges the Commission to require all broadcasters to continue transmitting 6 MHz NTSC-standardized signals, either simultaneously with ATV signals if such simulcasting in a given community would not displace any authorized low power or full power broadcaster, or by transmitting a single signal capable of being received both on NTSC and on more advanced receivers, as technology permits. Any delay in consumer reception of ATV signals caused by such policies will be comparable to, and as insignificant as, the inconvenience of being unable to receive stereo transmissions on equipment without stereo reception capacity until the benefits of the new technology appear to be adequate to justify purchase of new reception equipment.

Neither of those potential negative results is serious in the long run, nor significant enough to outweigh the serious harm that would be caused if the Commission mandates or allows use of greater spectrum capacity for ATV transmissions. Channel America

supports the Commission's intention not to undertake a massive reallocation in order to accommodate ATV, but if the Commission declines to limit ATV to TV's existing six MHz allocation and simultaneously declines to conduct reallocation, the inevitable result will be deprivation of ATV benefits to members of the public in major markets or loss of existing broadcasting service (including LPTV), or both.

Because low power television has historically been treated as a secondary TV service,^{1/} Channel America is particularly concerned that allowance of expanded spectrum utilization for ATV transmissions will seriously jeopardize the existence and future expansion of LPTV. In fact, the Tentative Decision herein, at note 100, suggests that very possibility and enunciates the basis for Channel America's concerns. It states: "Low power television (LPTV) and translator stations are not included due to their secondary status, therefore it is possible that some authorized LPTV stations may conflict with certain potential ATV assignments developed in our studies." That footnote, while somewhat ambiguous, appears to presume that ATV may be allowed to develop at

^{1/} Low Power Television Service, 51 RR2d 476, 486 (1982):

First and foremost, we intend to maintain the secondary spectrum priority of low power stations, a policy that assures protection from interference to full service stations. Secondary spectrum policy has two aspects: low power stations may not cause objectionable interference to existing full power stations, and low power stations must yield to facilities increases of existing full service stations or to new full service stations where interference occurs.

LPTV's expense and even if LPTV stations are disrupted or terminated as a result. Channel America accordingly disagrees with such action.

If the Commission only intends that ATV will be permitted if an LPTV station can continue to operate on its allotted channel, or, at the worst, if the LPTV station is displaced to another channel, Channel America then has no objection to the Commission's proposal. Moreover, that approach would be consistent with Commission pronouncements in its landmark Low Power policy statement. At note 34 thereof (51 RR2d 494), the Commission observed:

* * *

As the service impaired becomes more redundant, we would feel obligated to give more attention to the benefits obtained by the translator/low power service. We would also give less attention to interference received by viewers in special circumstances . . . [such as] the installation of a receiving system far more sophisticated than that used by the viewer's neighbors.

* * *

In short, the more sophisticated technology of ATV, as it becomes available, simply cannot justify by any stretch of the imagination the elimination of the benefits of the added media voice provided by the LPTV broadcaster to its community.

Finally, even if expanded spectrum utilization were permitted for ATV use on an interim and not a permanent basis, Channel America believes that the devastating impact on LPTV, if the Commission unwisely permitted LPTV stations to be eliminated by ATV, would be permanent. It has taken LPTV an arduous and

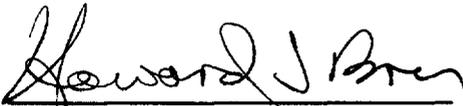
long time to advance to the threshold of viability, and most LPTV broadcasters would be unable to withstand even temporary termination or delay of inauguration of needed service. Simply put, if ATV were allowed to develop at the expense of LPTV, LPTV operators would be driven out of business and consumers would lose media voices for the dubious sake of advancement of technology. Such a policy would be unwise, and irreconcilable with constitutionally protected speech under the First Amendment.

III. Conclusion

Channel America is a pioneer and a leader in the emerging LPTV industry. It has committed millions of dollars to date toward its goal of reaching 15 million U.S. homes with its innovative and creative network programming. Much already has been accomplished by Channel America and others in the LPTV industry and Channel America is ready, willing and able to continue its costly efforts to attain its objective. However, if ATV is permitted to eradicate the hard-fought gains already achieved in the LPTV industry, Channel America's efforts will go for naught all to the detriment of the paramount public interest. Therefore, Channel America urges the Commission to proceed with a cautionary approach in the ATV field by (1) adopting policies prohibiting ATV from using additional spectrum space and thereby eliminating existing LPTV licensees or permittees and (2) mandating ATV development on six MHz to avoid permanent impairment or disruption to future LPTV or full power television services. Immediate adoption of such policies would permit the lifting of the major

market full power television freeze; provide for the inauguration of new media voices such as LPTV stations; and direct ATV researchers to develop technology in a way that will not deprive the public of constitutionally protected speech.

Respectfully submitted,


Howard J. Braun
Howard J. Braun


Heidi P. Sanchez
Heidi P. Sanchez

ROSENMAN & COLIN
1300 19th Street, N.W.
Suite 200
Washington, D.C. 20036

(202) 463-7177

Attorneys for Channel America
LPTV Holdings, Inc.

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