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August 18, 2017

**Ex Parte**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RE: *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, GN  
Docket No. 16-142

Ms. Dortch:

On Wednesday, August 16, 2017, Tamara Preiss, Leora Hochstein, William Wallace, and Daniel O’Callaghan (by telephone) of Verizon met with members of the Media Bureau to discuss Verizon’s recommendations for implementing the broadcast TV transition to ATSC 3.0.<sup>1</sup> Attending the meeting were Michelle Carey, Chief of the Media Bureau, and the following members of her staff: Diana Sokolow, Evan Baranoff, Nancy Murphy, Martha Heller, Kathy Berthot, Kim Matthews, and Steve Broeckaert.

Verizon supports the Commission’s proposal to provide broadcasters the opportunity for “permissionless innovation” in moving to a new transmission standard. We also agree that the transition from ATSC 1.0 to ATSC 3.0 should be voluntary and market-driven for all members of the ecosystem.<sup>2</sup> Just as broadcast TV stations should have the flexibility to choose whether and when to implement ATSC 3.0, other affected parties should similarly have the option of deciding whether and when to invest in new equipment to view and deploy ATSC 3.0, particularly consumers – both over-the-air viewers and subscribers to Multichannel Video Programming Distributors (MVPDs) – as well as TV equipment manufacturers, mobile device makers, and wireless service providers. To ensure that the transition to ATSC 3.0 is voluntary for all participants in the video marketplace, Verizon urged the Commission to adopt a few commonsense, time-limited requirements until ATSC 3.0 achieves widespread consumer acceptance and adoption.

We strongly support the Commission’s proposal to require broadcast stations transitioning to ATSC 3.0 to provide a simulcast of their programming in ATSC 1.0.<sup>3</sup> The simulcast obligation, which broadcasters described as the core of their proposal, will ensure that over-the-air and MVPD

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<sup>1</sup> See *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, Notice of Proposed Rulemaking, 32 FCC Rcd 1670 (2017) (“*NPRM*”).

<sup>2</sup> See *id.*, ¶ 1; National Association of Broadcasters *et al.*, Joint Petition for Rulemaking, GN Docket No. 16-142, at 3, 17-18 (filed Apr. 26, 2016).

<sup>3</sup> See *NPRM* ¶¶ 9-14.

consumers maintain access to broadcast TV and are not disenfranchised or forced into costly equipment upgrades for an as yet unknown programming format. To ensure that the simulcast approach succeeds, we urged the Commission to require that the ATSC 1.0 simulcast provide the same programming as the ATSC 3.0 broadcast, with approximately the same geographic coverage, in the same format (high definition or standard definition) and at the same bitrate as the broadcast station's current DTV over-the-air broadcast.<sup>4</sup> If the Commission allows certain broadcast stations to "flashcut" to ATSC 3.0 without a simulcast, the Commission should allow MVPDs to "downconvert" those ATSC 3.0 transmissions to ATSC 1.0.<sup>5</sup>

We discussed that Verizon uses a redundant system to obtain broadcast signals, employing a fiberfeed to receive transmissions and picking up signals over-the-air through the use of towers and antennas. To ensure continuity, we recommend that, if a broadcast station relocates its ATSC 1.0 simulcast, the Commission should require that "ATSC 1.0 simulcasts continue to reach over-the-air viewers and MVPD headends in the same format and with the same picture quality as prior to simulcasting."<sup>6</sup>

The Commission should also protect MVPD subscribers, who represent the vast majority of American TV viewers, from having to pay for a new broadcast TV service they have not yet requested. Until subscribers demand enhanced broadcast TV, they should not have to pay for it. As explained in our comments, MVPDs would incur significant costs to receive, transmit, and deliver ATSC 3.0 signals to subscribers, including for network and subscriber equipment.<sup>7</sup> And our subscribers would likely have to purchase new TVs or other in-home equipment to receive ATSC 3.0 programming. Furthermore, because of the increased bandwidth requirements of ATSC 3.0, MVPDs would be forced to reconfigure channel lineups and potentially drop some programming to accommodate multiple ATSC 3.0 signals.<sup>8</sup> MVPDs and their subscribers should not be forced through retransmission consent negotiations to incur these costs. Rather, in response to consumer demand, the MVPD should have the flexibility to decide whether and when to carry ATSC 3.0 transmissions.<sup>9</sup>

To protect MVPDs and their subscribers from prematurely bearing the costs of ATSC 3.0, the Commission should prohibit broadcasters from requiring MVPDs to carry the new ATSC 3.0 signal as a condition for carrying the ATSC 1.0 signal that consumers enjoy today. Specifically, the Commission should impose a one-year "quiet" period prior to the expiration of a retransmission consent agreement for an ATSC 1.0 signal, during which time the broadcast station cannot negotiate

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<sup>4</sup> See Comments of Verizon, GN Docket No. 16-142, at 11-14 (filed May 9, 2017) ("Verizon ATSC 3.0 Comments"); Reply Comments of Verizon, GN Docket No. 16-142, at 2-6 (filed June 8, 2017) ("Verizon ATSC 3.0 Reply").

<sup>5</sup> See Verizon ATSC 3.0 Comments, at 14.

<sup>6</sup> Reply Comments of American Television Alliance, GN Docket No. 16-142, at 7 (filed June 8, 2017). NCTA makes a similar proposal that should achieve the same result: "[B]roadcasters must continue to serve the same community of license and coverage area with their over-the-air ATSC 1.0 simulcast stream, even if they opt to channel share on another station's ATSC 1.0 channel to make room for an ATSC 3.0 launch on their licensed facility. Otherwise, cable operators may lose access to a usable over-the-air signal." Comments of NCTA, GN Docket No. 16-142, at 3 (filed May 9, 2017).

<sup>7</sup> See Verizon ATSC 3.0 Comments, at 3-7.

<sup>8</sup> See *id.* at 7.

<sup>9</sup> See Verizon ATSC 3.0 Comments at 8-11; Verizon ATSC 3.0 Reply, at 6-8.

for the first-time carriage of an ATSC 3.0 signal. In the alternative, the Commission could find that it is a *per se* violation of the duty to negotiate in good faith for a broadcaster to condition carriage of the ATSC 1.0 signal on a commitment for first-time carriage of the ATSC 3.0 signal. We noted that the Commission could also entertain complaints regarding tying carriage of the ATSC 3.0 signal to carriage of the ATSC 1.0 signal under its totality of the circumstances test.<sup>10</sup> However, during the initial stages of the transition while equipment is not available and consumer acceptance cannot be measured, it would be more efficient to impose an *ex ante* restriction. The Commission can review and sunset any such restrictions as appropriate based on its evaluation of ATSC 3.0 penetration in the video market.

The Commission has broad authority under various sections of Title III to adopt the simulcast requirement. The Commission's authority under Section 325(b) and its decisions limiting the outcome of negotiations in certain circumstances justify the proposed limits on retransmission consent negotiations.<sup>11</sup>

Regarding notice of a must-carry station's relocation of its ATSC 1.0 signal, we recommend that the station provide notice to MVPDs at least 60 days prior to the planned date for initiation of broadcasts at the new location. If that date changes, or is delayed for any reason, the station should send an updated notice. If the broadcast station and an MVPD cannot establish reception of a good quality signal within the 60 days, then to ensure continued carriage, the broadcast station should be required to deliver the signal by fiber feed or some alternative means. If an alternative is not available, the MVPD should be allowed to delay carriage until the station can deliver a good quality signal.

Pursuant to Section 1.1206(b)(1) of the Commission's rules, I am submitting this *ex parte* notice letter into the above-referenced docket over the Electronic Comment Filing System.

Sincerely,

cc: Michelle Carey  
Diana Sokolow  
Evan Baranoff  
Nancy Murphy  
Martha Heller  
Kathy Berthot  
Kim Matthews  
Steve Broecker

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<sup>10</sup> See 47 C.F.R. § 76.65(b)(2).

<sup>11</sup> See Comments of Verizon, *Implementation of Section 103 of the STELA Reauthorization Act of 2014; Totality of the Circumstances Test*, MB Docket No. 15-216, at 6-9 (filed Dec. 1, 2015); cf. *Amendment of the Commission's Rules Related to Retransmission Consent*, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 3351, ¶ 10 (2014) (prohibiting joint retransmission consent negotiations by two of a market's top four TV stations, if non-commonly-owned, finding that the harms from the results of such negotiations outstrip any efficiency benefits).