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Federal Communications Commission
Office of the Secretary

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

In the Matter of	)	
	)	
Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service	)	MM Docket No. 87-268

To: The Commission

Comments of Association of America's Public Television Stations, Corporation for Public Broadcasting, and Public Broadcasting Service

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Dated: December 20, 1991

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SUMMARY OF ARGUMENT

The important issues raised in the Notice of Proposed Rulemaking, particularly those relating to spectrum allocations and assignments for advanced television ("ATV") service, are crucial to the future of public television. Allocation of ATV spectrum for noncommercial use is vital to public television's continued ability to fulfill its mission of service to the American public.

Established Congressional and Commission policies mandate reservation of channels for noncommercial educational use in the allotment of ATV channels. ATV channels should be reserved not only for existing noncommercial licensees, but also for unused reserved NTSC allotments in order to preserve public television's ability to expand its service throughout the nation and to give the public access to new and developing public television services. Vacant noncommercial allotments should not be used as a source of ATV spectrum unless, after a case-by-case analysis, there is no feasible alternative way of assigning an ATV channel to an existing broadcaster. And in no event should reserved channels be deleted where they are necessary to provide noncommercial television service to a community that does not receive Grade B noncommercial service directly from a full power television station.

The Commission should adopt a comprehensive table that both allots ATV channels to communities and matches particular ATV channels with existing NTSC channels, including those assigned to

operating noncommercial stations and vacant reserved noncommercial channels. This approach is necessary to ensure that the existing noncommercial educational reservations are preserved in an ATV world. Noncommercial entities do not have the resources, and cannot mobilize the limited resources they have quickly enough, to compete for spectrum with commercial applicants. Thus, without such channel pairing and reservations, the public is likely to be deprived of ATV public television service.

In allocating ATV channels, the Commission should attempt to replicate, at a minimum, the coverage areas of existing stations. It should also attempt, to the extent feasible, to improve the coverage of noncommercial UHF stations so that their coverage is comparable to that of VHF stations in the same market. Universal public television service is a well established federal policy objective and rectifying the UHF handicap under which most noncommercial stations operate will further that policy.

In the event that there are not enough ATV channels to be assigned to every eligible party, noncommercial licensees and permittees, as well as vacant reserved channels needed to provide service to unserved areas, should have priority in receiving ATV allotments. Such a priority follows from the longstanding federal policy of extending the reach of public television service to as much of the nation as possible. In addition, the types of programming for which public television is well known -- its visually stunning nature, science, art, cultural, performing arts, travel and documentary programs -- exemplify the kinds of

programming that would be most enhanced by ATV technology. Moreover, there are far fewer public television stations than commercial television stations. For these reasons, it would not serve the public interest to jeopardize the future of any noncommercial television stations or of reserved channels during the transition to ATV technology.

While the Commission's proposal to impose a deadline on ATV applications in order to minimize delays in bringing ATV service to the public makes some sense in a commercial television environment, it is inconsistent with the policy underlying noncommercial reservations. In adopting that policy, the Commission recognized that noncommercial stations would require more time than commercial stations to become operational, and set aside channels so that noncommercial entities could raise necessary capital and operating funds. Consistent with that policy, the Commission should afford noncommercial applicants flexibility in applying for ATV channels. In addition, it is not necessary or appropriate to require noncommercial stations to demonstrate their financial qualifications. They have an established track record of providing improved services made possible by advances in technology and strong incentives to implement their ATV proposals.

Finally, Public Television urges the Commission not to adopt a simulcast requirement at this time. While the benefits of a simulcast requirement would be minimal, if not nonexistent, the adverse effects of such a requirement, particularly on public

television, would be substantial. A simulcast requirement would have a chilling effect on the development of ATV service, stifling the potential of ATV to be used for innovative new kinds of programming for which it is uniquely suited. It would also hamper public television's efforts to allocate its scarce resources in a way that optimizes its programming and its use of both NTSC and ATV technologies.

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To: The Commission

Comments of Association of America's Public Television Stations, Corporation for Public Broadcasting, and Public Broadcasting Service

The Association of America's Public Television Stations ("APTS"), the Corporation for Public Broadcasting ("CPB"), and the Public Broadcasting Service ("PBS") (collectively referred to as "Public Television") submit these comments in response to the Commission's Notice of Proposed Rulemaking released November 8, 1991 ("Notice") in the above-captioned proceeding.

APTS and PBS are nonprofit membership organizations whose members are licensees of virtually all of the nation's public television stations. APTS serves as the national representative of these stations, presenting their views and participating in proceedings before Congress, executive and administrative agencies, and in other activities. PBS is the national program distribution arm of the nation's public television stations, providing distribution and other program-related services to its members. CPB is the private, nonprofit corporation authorized by the Public Broadcasting Act of 1967 and financed primarily by

federal appropriations to facilitate and promote a nationwide system of public broadcasting.

The important issues raised in the Notice, particularly those relating to spectrum allotments and assignments for advanced television ("ATV") service, are crucial to the future of public television. Reservation of ATV spectrum for noncommercial educational use is vital to public television's continued ability to fulfill its mission of service to the American public; since noncommercial applicants cannot compete for spectrum on an equal footing with commercial applicants, ATV channels must be reserved for noncommercial use to assure that ATV public television service is provided to the public generally and to those who depend upon public television's specialized educational programming.

With its emphasis on culture, arts, science, nature and documentaries, public television programming will be enhanced immeasurably by the improved picture clarity, undegraded stereo sound, and broader range of artistic options promised by ATV. In addition, ATV technology offers new opportunities to provide a variety of unique educational services. Given public television's commitment to providing educational service, allocation of ATV spectrum to public television will assure that ATV's potential as an educational tool is realized.

Because ATV is so vital to public service programming, PBS has been active in the demonstration and testing of ATV technology. APTS, CPB and PBS have also been active participants in the Commission's proceedings to develop regulatory policy for

ATV. These comments focus on the issues raised in the Notice that are of particular concern to noncommercial educational stations. APTS and PBS have also joined in the comments filed today by the Broadcasters coalition, which address issues of mutual concern to commercial and noncommercial stations.

I. The Commission Should Adopt a Comprehensive Table of Allotments Pairing ATV Channels With NTSC Channels

A. ATV Allocations Should Continue the Long-Standing Federal Policy of Reserving Channels for Noncommercial Educational Use to Foster Public Television Service

The Commission solicits comment in the Notice on various methods of allocating ATV channels to communities and assigning them to particular television stations. In considering those issues, the Commission should take into account the special role played by public television and adhere to its long-standing commitment to fostering the development of public television through channel reservations.

The Commission's policy towards public television has its foundations in the Sixth Report and Order on Television Assignments, 41 F.C.C. 148 (1952) ("Sixth Report and Order"). In that seminal order, the Commission recognized the unique and important services that educational television could offer. In order to ensure that television would be used for educational as well as commercial purposes, it reserved 242 channels, including both VHF and UHF channels, for noncommercial educational use. The Commission reserved those channels because it realized that noncommercial entities would "require more time" than commercial

entities to construct stations and place them in operation. Sixth Report and Order at 159. The Commission also believed that reserving channels for noncommercial use would make it easier for noncommercial applicants to raise funds and obtain other support for their proposed facilities. Id. at 161. It acknowledged that noncommercial reservations would result in non-use of the reserved spectrum for some period of time, but concluded that the long-term public interest in ensuring that a portion of the television spectrum is used for noncommercial, educational purposes justified the reservations.

Since 1952, the Commission has consistently protected the reservations, resisting efforts by commercial broadcasters to de-reserve them[1/] and requiring proponents of de-reservation to bear a "heavy burden of persuasion."[2/] Moreover, it has reserved additional channels so as to further the reach of public television service.[3/] Some assignments and reservations have

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1/ See, e.g., TV Channel Assignments in New Smyrna Beach, Florida, 50 R.R.2d 1714 (1982), recon. denied; TV Channel Assignments in Houston, Texas, 50 R.R.2d 1420 (1982); Table of Assignments in Ogden, Utah, 26 F.C.C.2d 142 (1970), recon. denied, 28 F.C.C.2d 705 (1971); Channel Assignments in Hamilton, Alabama, 21 R.R. 1577 (1961); Channel Assignments in Longview-Denton, Texas, 17 R.R. 1549 (1958), recon. denied, 17 R.R. 1552a (1959); Channel Assignments to Des Moines, Iowa, 14 R.R. 1524d (1956), recon. denied, 14 R.R. 1528 (1956).

2/ TV Channel Assignment at Ogden, Utah, 45 R.R.2d 768 (1979).

3/ See Television Channel Assignments at Anchorage, Alaska, 68 R.R.2d 1121 (1990); Television Channel Assignments at Victoria, Texas, 52 R.R.2d 1508 (1983); TV Channel Assignments at Seaford,

(continued...)

been made specifically to provide better picture quality or to permit the formation of networks of noncommercial educational stations.[4] In short, the FCC has consistently placed a "high allocations priority"[5] on the reservation of channels in furtherance of its "policy of providing all possible encouragement and assistance for the development of educational television." Channel Assignment in Medford, Oregon, 3 F.C.C.2d 860, recon. denied, 8 R.R.2d 1531 (1966).

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[3](...continued)
Delaware, 43 R.R.2d 1551 (1978); TV Channel Assignment at Mount View, Arkansas, 38 R.R.2d 1298 (1976); TV Channel Assignment at Eufaula, Oklahoma, 35 R.R.2d 1039 (1975); TV Channel Assignment at Booneville, Mississippi, 27 R.R.2d 246 (1973) (other channels required to change their frequencies as a result of assignment and reservation of noncommercial channel); Educational Television Channel Assignment at Parsons, Kansas, 23 R.R.2d 1707 (1972); ETV Channel Assignments in the Virgin Islands, 20 R.R.2d 1659 (1970) (mileage separation requirements with co-channels in Puerto Rico waived; the most important factor for waiver is that the channels were for educational use); Channel Assignments at Las Cruces, New Mexico, 14 R.R.2d 1593 (1968); UHF Channel Assignments in Hawaii, 11 R.R.2d 1518 (1967) (18 UHF channels assigned to Hawaii, with 8 reserved for noncommercial educational use); Television Channel Assignment to Eagle Bute, South Dakota, 10 R.R.2d 1768 (1967); Television Channel Assignment in Staunton, Virginia, 5 F.C.C.2d 537 (1966).

[4] TV Channel Assignments at McGill, Nevada and Richfield, Utah, 24 R.R.2d 1855 (1972) (exchange of channels and reservation of one for noncommercial use will make it possible to provide for area-wide educational service without disrupting existing translator service); TV Channel Assignments at Nashville, Tennessee, 26 R.R.2d 1667 (1973) (educational reservation is changed from Channel 2 to Channel 8 so as to provide the educational operation with a considerable improvement in picture quality).

[5] UHF Channel Assignments, 7 R.R.2d 1704, 1708 (1966).

Since the Commission first set aside channels for noncommercial educational use, Congress has endorsed that allocations policy and expressed, in the strongest terms, its own commitment to public television and to the preservation of the noncommercial reservations.[6] Congress has established as a national policy that public television be made available to as much of the nation as possible and has appropriated funds toward that end. In 1962 Congress adopted the Educational Television Facilities Act, authorizing funds for the construction of educational television stations.[7] In 1967, Congress reiterated its policy of preserving and expanding the growing educational television system by providing additional funding to "improve the facilities and program quality of the nation's educational

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[6] E.g., Educational Television, S. Rep. No. 67, 87th Cong., 2d Sess. 1 (1961), reprinted in 1962 U.S. Code Cong. & Admin. News 1614; Hearings Before the Committee on Interstate and Foreign Commerce, U.S. Senate, concerning Senate Bill No. 12, 86th Cong., 1st Sess. at 21, 61 (1959); Hearings Before the Committee on Interstate and Foreign Commerce, U.S. Senate, concerning Senate Bill No. 2119, 85th Cong., 2d Sess. at 13, 18 (1958); Hearings Before the Committee on Interstate and Foreign Commerce, U.S. Senate, 83rd Cong., 1st Sess. at 12-14, 26, 45-46, 56-67 (1953).

[7] See Educational Television Facilities Act, Pub .L. No. 87-447, 76 Stat. 64 (1962). The 1962 Facilities Act required that federal funding be distributed among the states so as to "assure equitable, geographical distribution cf facilities throughout the States, [and] service to the greatest number of persons . . ." H.R. Rep. No. 572, 90th Cong., 1st Sess. 13 (1967).

broadcasting stations . . ."[8] Expressing concern specifically with respect to program technical quality, the Senate Report noted:

> [T]he [noncommercial educational] programs which are offered must approach the highest possible program standards consistent with funds and talent available. It must be remembered that a whole generation of viewers has grown accustomed to the professionalism of commercial television and if educational television is to attract and hold audiences it must keep this in mind.

Id. at 1778 (emphasis added).

This Congressional policy of fostering universal public television service comparable in technical quality to commercial television has obvious implications for ATV allocations policy. Indeed, the House Committee on Energy and Commerce has explicitly recognized the vital importance to public television of ATV's superior technical quality:

> Advanced and/or high definition television (ATV and HDTV) promise to offer many new uses for the television medium in addition to enhanced home entertainment services. This advanced technology will have critical applications in the fields such as medicine, microbiology, education and engineering. The Committee believes that it is critical that the public broadcasting system be able to take advantage of technologies such as advanced television technologies including HDTV...

Public Telecommunications Financing Act of 1988, U.S. House of Representatives, H.R. Rep. No. 825, 100th Cong., 2d Sess. 14 (1988) (emphasis added). Continuation of the forty-year old policy of reserving channels for noncommercial educational use is

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[8] Public Broadcasting Act of 1967, Pub. L. No 90-129, 81 Stat. 365 (1967), S. Rep. No. 22 90th Cong., 1st Sess. 1 (1967), reprinted in 1967 U.S. Code Cong. & Admin. News 1772, 1772.

vital to accomplishing these well-defined public interest objectives.

B. Reserved Channels Should Not Be Used as a Source of ATV Spectrum Except As a Last Resort.

Public Television is gratified that the Commission acknowledges in its Notice the important role that noncommercial stations play and the financial constraints under which they must labor in constructing and operating stations. Public Television is also pleased that the Commission has indicated that it intends to continue its tradition of taking these factors into account in spectrum planning for ATV. The Commission states that its technical studies thus far suggest that it will be able to assign an additional 6 MHz ATV channel to all existing stations without using vacant spectrum now reserved for noncommercial stations. Notice at ¶ 27. It proposes to use the vacant noncommercial reserve for ATV service "only as a last resort," where ATV channels could not otherwise be assigned to all existing broadcasters. Id. at ¶ 29. It seeks comment on this proposal and on the particular circumstances that might justify using a vacant noncommercial allotment. Id. at ¶ 29.

Public Television believes that established Congressional and Commission policies mandate retention of the existing reservations of spectrum for noncommercial educational uses, and thus supports the Commission's proposal to use vacant noncommercial allotments only as a "last resort." Public Television urges the Commission to articulate clearly that this

policy will permit de-reservation of vacant noncommercial allotments only when there is no feasible alternative way of assigning an ATV channel to an existing broadcaster.

Any decision to de-reserve a channel should be made on a case-by-case basis only after an intensive examination of the particular facts of each case, including consideration of all feasible engineering alternatives that would permit an ATV assignment to an existing broadcaster without de-reservation of the noncommercial channel. De-reservation should never be the solution of choice simply because there appear to be fewer ATV channels available in a given market than there are existing NTSC channels. Rather, before any vacant reserved channel is de-reserved a comprehensive and detailed engineering analysis should be undertaken that includes consideration of such techniques as minor adjustments in the service areas of adjacent ATV stations, site restrictions, the use of directional antennas, terrain shielding, and other techniques that might permit the Commission to retain the reserved channel.

Special considerations come into play where an unused noncommercial allotment is essential to provide a first local noncommercial educational television service to an area. Congress has made a nationwide public television system providing service "throughout the United States... to the greatest number of persons . . . ." a matter of federal policy. H.R. Rep. No. 572, 90th Cong. 1st Sess. 13 (1962) (Report on Educational

Television Facilities Act of 1962).[9] Consistent with this policy, reserved channels can not be deleted where they are necessary to provide noncommercial television service to a community that does not receive a Grade B noncommercial signal directly from a full power public television station.[10]

In sum, Public Television supports the Commission's proposal to use the reserved spectrum for ATV service "only as a last resort," after all alternative means of making ATV spectrum available to an existing station have been explored on a case-by-case basis and found to be wanting. In no event,

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[9] The national policy of extending public television service to as many Americans as possible was reaffirmed and strengthened in the Public Broadcasting Act of 1967, Pub. L. No. 190-129, 81 Stat. 365 (1967), in which Congress declared that "it furthers the general welfare to encourage public broadcasting services which will be responsive to the interests both in particular localities and throughout the United States, and which will constitute an expression of diversity and excellence;" and that "it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make public broadcasting service available to <u>all citizens of the United States</u>. . . ." Pub. L. No. 90-129, Section 201 (emphasis added). <u>See</u> 47 U.S.C. 396(a)(5) and (6) (1988). When Congress enacted the Public Telecommunications Financing Act of 1978, Pub. L. No. 95-567, 92 Stat. 2405, it gave funding priority to "expansion of the systems' coverage," H.R. Rep. No. 1178, 95th Cong., 2nd Sess. 2 (1978), and to extending the reach "of public television <u>throughout the country.</u>" S. Rep. No. 858, 95th Cong. 2nd Sess. 6-7 (1978) (emphasis added). In 1981, Congress reaffirmed the importance of making public broadcasting available to all and extended the Public Telecommunications Facilities Program, finding that "there are significant numbers of American citizens who are unserved by public broadcasting even though their tax dollars are used to support it. For this reason, the Committee finds that the [nationwide service] goals of the Act have not been met. . . ." H.R. Rep. No. 82, 97th Cong., 1st Sess. 17 (1981).

[10] In these Comments, we will refer to this concept as a "first local noncommercial or public television service."

however, should a noncommercial channel be de-reserved where that channel would provide the first local noncommercial service to a community.

Finally, as the Commission recognizes in the Notice, additional spectrum may eventually be available for ATV use once NTSC operations cease. If that proves to be the case, any re-allocated spectrum should be used first to replace any reserved channels that are deleted to accommodate the ATV needs of existing broadcast stations. By making such allocations, the Commission will restore, to the extent feasible, the spectrum originally reserved for educational use.

C. The Comprehensive Table of Allotments Should Pair ATV Channels With Each Operating Noncommercial Educational Television Station and With Each Vacant Reserved Noncommercial Channel

1. Specific ATV Channels Must be Reserved for Noncommercial Use So That Noncommercial Applicants Are Not Forced to Compete with Commercial Applicants for Spectrum

The Commission proposes two alternative approaches to assigning particular ATV channels to existing broadcasters. Under the first approach, the Commission would formulate a table of allotments that allots ATV channels to each community and randomly matches particular ATV channels with NTSC channels currently listed on the table. The revised table would thus consist of paired NTSC and ATV allotments for each community. Notice at ¶ 18. The Commission appears to favor this approach because it would be fair, efficient and facilitate early licensing and implementation of ATV. Id.

Under the alternative proposed procedure, the Commission would first allot ATV channels to each community listed in the table of allotments and then permit existing NTSC licensees to apply for the ATV channels allotted to their respective communities on a "first-come, first-served" basis during an initial filing "window." If all of the applicants' channel preferences could not be accommodated, the Commission would randomly rank the applicants and then accommodate their preferences in the order in which they are ranked. Broadcasters that do not file in the first window would be able to apply for any remaining channels on a first-come, first-served basis at a later date. Notice at ¶ 19.

Public Television vigorously endorses the position advanced by the Broadcaster's coalition that the Commission must adopt a comprehensive table that not only allots ATV channels to communities across the nation but also matches a particular ATV channel with each existing NTSC channel. Public Television further endorses the Broadcasters' coalition position that the channel pairings should be based to the greatest extent possible on engineering considerations so as to optimize the number and coverage of ATV channels. This is the most efficient and equitable means of assigning ATV spectrum.

This channel-pairing approach is also crucial to the future of public television. While the pairing and reservation of ATV channels would be consistent with the Commission's long-standing noncommercial reservations policy, the proposed "first-come

first-served" proposal would undermine that policy. As discussed above, the Commission reserved channels because it recognized that noncommercial entities generally do not have the resources to compete effectively with commercial applicants for spectrum, and generally need a longer time to raise funds to build facilities and establish programming services than commercial applicants.

The wisdom of the Commission's reservations policy is demonstrated by the fact that reserved channels are still being activated. During the past ten years, 86 new noncommercial stations -- which represent fully 24% of the total number of noncommercial stations now operating across the nation -- commenced operation. The December 31, 1981 issue of Broadcasting reported that there were 271 educational stations in operation (107 VHF and 164 UHF). By December 1991, that number had increased to 357 (124 VHF and 233 UHF). See Broadcasting, Dec. 15, 1991, at 68. Thus, the Commission's judgment that reserved channels would eventually be used to provide noncommercial educational service was unquestionably correct.

The justifications for the Commission's reservations policy apply with equal force to ATV, the costs of which may be beyond the immediate financial means of many public broadcasters. As the Commission is aware, public television licensees are dependent on governmental appropriations at both the federal and state level, foundation grants, and corporate and viewer donations for funding for capital improvements. Substantial lead

time is often required to persuade legislators of the need for capital funds and additional time is required for them to appropriate the funds, particularly when the appropriations are of the magnitude that will be necessary to construct ATV facilities. In addition, there is a substantial possibility that meaningful funding for ATV may not be available for public television until the benefits of that technology are widely recognized by the public and there is substantial ATV penetration.[11/] Consequently, the proposed "first-come, first-served" procedure might well deprive public television licensees of ATV channels or, at best, leave them with inferior ATV allotments.

Accordingly, Public Television urges the Commission to adopt a comprehensive table of allotments that pairs ATV channels with each NTSC channel currently listed on the table, based on engineering considerations. Each ATV channel that is paired with a noncommercial allotment should be similarly reserved for noncommercial educational use. This will help to ensure that sufficient ATV spectrum is allocated to noncommercial educational use.

In the event that the Commission decides not to adopt a table of allotments pairing NTSC channels with ATV channels, it

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[11/] Public television's experience in converting from black and white to color is instructive. Public television stations were slow to convert to color because federal funds for the conversion did not become available until the early 1970's, by which time most commercial stations were operating entirely in color.

must nonetheless set aside spectrum for noncommercial educational use. Without such a reserve, the public will be deprived of ATV public television service because noncommercial licensees and applicants cannot compete with commercial interests for spectrum.

2. ATV Channels Should Be Paired With Vacant Noncommercial Channels As Well As With Those Assigned To Operating Stations

In allotting ATV spectrum, the Commission proposes to associate an additional 6 MHz ATV channel with each operating commercial and noncommercial station and, to the extent feasible, with existing vacant noncommercial allotments. In those few cases where it would be impossible to pair ATV spectrum with vacant noncommercial allotments without precluding delivery of ATV service by an existing television station, the Commission proposes to give existing broadcasters precedence over vacant noncommercial allotments. Notice at ¶ 27-29.

Although Public Television recognizes the importance of assuring continued service by existing operating television stations, it also believes that it is crucial to the future expansion of public broadcasting service that vacant reserved channels, like other reserved NTSC channels, be paired with new ATV channels. Given the Commission's intention that ATV service eventually supplant NTSC service and that NTSC channels ultimately be surrendered, failure to pair vacant reserved channels with ATV spectrum will result in the loss of that spectrum for noncommercial educational purposes and thus constrain expansion of public television service.

Therefore, except in those very limited circumstances where a detailed engineering analysis demonstrates that pairing ATV spectrum with vacant noncommercial channels will preclude ATV service by an existing station, Public Television urges the Commission to allocate 6 MHz of ATV spectrum to vacant noncommercial allotments as well as to operating public television stations.[12] This allocations priority is necessary to implement the Congressional policy of fostering universal public television service.[13]

3. The Commission Should Attempt to Assure Coverage Parity for Noncommercial UHF Stations

Public Television supports the position advanced by the Broadcasters coalition that the Commission should attempt to assure that ATV allotments permit existing television licensees to replicate their existing NTSC serving areas. Public Television is painfully aware, however, that the service areas of existing stations are frequently not comparable; stations

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[12] In all events, the Commission must allocate an ATV channel to any vacant reserved channel where that channel is needed to provide a first local noncommercial service to an unserved area.

[13] In those cases where an ATV allocation for a vacant channel is not possible, the reserved NTSC channel should be protected from interference in accordance with both NTSC and ATV separations requirements, if possible, so that it can be converted to use as an ATV channel once ATV becomes the dominant broadcast television technology. Where NTSC channels cannot either be paired with an ATV channel or protected in accordance with ATV separations requirements in the initial Table of Allotments, vacant reservations should be paired with ATV channels if and when additional spectrum is freed up as a result of the relinquishment of NTSC licenses.

operating in the VHF band typically serve substantially larger areas than stations operating in the UHF band. Most of the nation's public television stations are UHF stations and suffer from the inferior propagation of UHF signals.

Establishing an ATV table of allotments may offer the Commission an opportunity to eliminate, or at least reduce, this disparity, particularly in areas where spectrum is not congested. Given the federal policy of fostering universal public television service,[14/] Public Television urges the Commission to take this opportunity to reduce public television's handicap and assign channels for noncommercial educational use that make the service areas of noncommercial UHF stations comparable to those of VHF stations to the maximum extent feasible. Improving the coverage of noncommercial UHF stations will enhance their ability to provide the American public with public television's unique program services and would further the federal policy fostering universal public television service.

4. The Commission Should Defer Adopting Any Policy Concerning The Exchange of Noncommercial and Commercial ATV Channels

The Commission proposes that once it makes initial ATV channel assignments, licensees in the same or adjacent markets should be permitted to negotiate channel exchanges among themselves. Notice at ¶ 22. It proposes to condition any such

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14/ See pages 6-7 supra.

channel swaps on the requirement that any proceeds from such an exchange be invested in the station's ATV facilities. Id.

Public Television appreciates the Commission's motivation to accommodate licensees' channel preferences as much as possible. However, the proposal to permit negotiated channel swaps between commercial and noncommercial broadcasters poses troublesome public policy questions for public broadcasters. Noncommercial educational licensees often operate under severe financial constraints, and it may be difficult for some of them to turn down an offer from a commercial broadcaster to trade a superior ATV channel for one that is inferior where such a trade would generate funds that the noncommercial licensee could use either to convert to ATV or to meet operating expenses. Although such exchanges might result in a short-term gain for a few stations, they would pose a serious threat to public television service as a whole.

Public Television is concerned about the impact on public television as a whole of economically motivated swaps for the same reason that the Senate Appropriations Committee objected to the proposal during the mid-1980s to permit VHF public television stations to trade their frequencies for UHF allocations in order to generate additional funding:

> Since the 1950's, the Congress has been deeply involved in ensuring that public broadcasting has adequate channel assignments for a nationwide system. Today, there are over 300 public television stations, with some 120 in the VHF band. These stations are public broadcasting's birthright... There is also a major concern about the fate of government funding for the entire public broadcasting