> for completion of the many tasks each industry segment faces.[27] [Emphasis added.]

And it says:

> The availability of technical information is crucial to the implementation of Advanced Television. If adequate attention is not paid to this issue, Advanced Television cannot be implemented on the aggressive schedule the Commission seems to be favoring. After the system selection decision itself, this one item has the greatest potential to delay the implementation of Advanced Television among the tasks that must be carried out.
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> The structure for the necessary documentation and the responsibility for its generation should be established well in advance of a system selection. The system selection should be announced as soon as it has been made, if possible before other formalities are completed, so that the documentation process can start at the earliest possible moment. It is assumed that a proponent will not be willing to invest in this documentation effort until it knows that its system has been selected.[28] [Emphasis added.]

NAB suggests that past experience and the magnitude of the tasks involved in this effort indicate that technical documentation in the detail the Working Party says is needed simply will not be available "no later than the issuance of the NPRM proposing the system selection."[29] And, thus, corresponding broadcast equipment will not be available on the timetable the Working Party's estimates assumed and, therefore, broadcaster implementation will be delayed, as the Working Party suggests.[30]

27/ *Id*. at 8.

28/ *Id*. at 15.

29/ *Id*. at 8.

30/ *Id*.

Finally, the Working Party report states that:

> [c]onsumer HDTV receivers may very well not be generally available in the marketplace as quickly as has been predicted in some quarters. . . . This is very likely to be <u>a gating item</u> in HDTV implementation. It is of such significance that a wider range of inputs is being sought from consumer electronics manufacturers.[31/]

While the Commission has stated that it will not rely on receiver penetration in setting station construction schedules, surely it must take receiver <u>availability</u>, or unavailability, into account in setting deadlines, and in building in some time for various delays. NAB cannot imagine that the Commission would not do so, given an anticipated delay in the <u>availability</u> of receivers.

Moreover, added to this list of possible complications recognized but not accounted for by the Working Party in its estimates are other factors many in the industry consider extremely likely to even further extend the time within which to reasonably expect construction. And these factors flow directly from the constricted current schedule which cannot allow for natural staggered implementation by market size. For, if there is not time to achieve economies of time and scale, there inevitably will be an inadequate or unaffordable supply of necessary suppliers such as tower builders (of which there are only a handful of companies), consulting engineers (the limited population of which cannot be rapidly expanded) and

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<u>31/</u> <u>Id</u>. at 16.

"affordable" equipment (which for small and medium-sized stations cannot be "first generation" equipment).

If the Commission will not extend its current schedule, it cannot rely on adequate amounts of any of the above. And it cannot, and must not, with any fairness, expect perhaps the majority of television stations to pay for or finance unnecessary "premium" expenditures, given the financial state of the industry (or even, we would assert, were it otherwise).

C. The HDTV Construction Schedule Established By the Commission Does Not Adequately Consider the Present Financial Condition of the Television Industry Nor the Great Disparities Within It.

The Commission's across-the-board and short HDTV construction schedule demands the same capabilities and implementation of all stations, in all markets, irrespective of the weakened financial condition of much, though not all, of the industry.

It does so despite the very great financial disparities within the industry, which, to a great (but not total) extent, occur by market size. It does so despite expected economies of scale and time that could be achieved by early implementation in large markets, to the great and needed benefit of vastly far less financially capable stations in the smaller and medium markets. And it does so despite that fact that, without these scale economies, these vastly financially-inferior stations will be forced to pay the premium prices of very expensive first generation equipment.[32/]

NAB respectfully requests the Commission to re-evaluate its decision and, in doing so, to consider the financial condition of the industry and the great financial disparities within it. Given the weakened financial state of the television industry, it is going to be difficult for many television stations to find the funds to invest in first generation HDTV equipment. Even before the recession of 1991 many television stations were losing considerable amounts of money.[33/]

-- Over one-quarter of all affiliated (with the 3 major television networks) stations lost more than $197,000 in 1990. Many of these affiliates losing money are in the smallest markets, i.e., ADIs 100+, though some are in the mid-sized markets,

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32/ The CBS Study, for example, estimated that the capital investment in high definition equipment for each of the first stations to convert (in that study's projected scenario) would be $11.6 million (for full HDTV capability). This cost becomes progressively smaller for stations in each time-phased implementation group. For the next to last group, the cost for the same full conversion was projected to be $6.9 million. For pass-through construction only, the capital cost for each of the first stations to so construct is estimated to be $1.5 million. For the next to last group, the same level of construction would cost less than $900,000, a substantial savings to this far less capable group of stations. For the last group, with the smallest and least capable stations, this figure falls to less than $750,000. CBS Study, at figure 4.

The CBS Study considered its estimated ten per cent reduction in equipment costs for each doubling of the number of units used for HDTV broadcasting was a reasonable, although moderately aggressive, assumption. Id. at 12.

33/ 1991 NAB/BCFM Television Financial Report, Washington, D.C.: National Association of Broadcasters, 1991.

e.g., ADIs 31-70, where one quarter of all affiliates lost money.

-- One-half of all independents lost more than $410,585 in 1990, with one quarter losing more than $1.6 million. Once you move out of the top 10 ADIs, the average independent loses substantial amounts, e.g., $1.3 million in ADIs 11-20. In mid-sized markets, ADIs 41-100, three quarters of all independents lost money in 1990.

-- One-half of all UHF stations (affiliates and independents) lost more than $247,000 in 1990, with one-quarter losing more than $1.1 million. The average UHF station lost $455,000.

The 1991 results, soon to be released, will show ever further erosion, in part due to the recession, but also due to the long term trends in the industry. The Commission itself has recognized these trends facing the television industry. The June 1991 OPP Report observed:[34/]

> Broadcast television, however, has suffered an irreversible long-term decline in audience and revenue share, which will continue throughout the current decade.
>
> * * *
>
> Television broadcasting will be a smaller and far less profitable business in the year 2000 than it is now.

What this means is that many television stations will find it difficult to secure the funds necessary to invest in HDTV equipment immediately without prospects for additional revenues. This is especially true for small market stations. The average station in markets of ADI rank

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34/ F. Setzer, J. Levy, "Broadcast Television in a Multichannel Marketplace," Office of Plans and Policy, Federal Communications Commission, June 1991, p. vii.

101 and larger lost $69,183 in 1990, and probably even more in 1991.

Of course, television stations can attempt to secure financing for purchasing "first generation" HDTV equipment required under the Commission's current schedule. The interest and principal payments, however, will put a severe strain on an already strained television station budget. For example, there have been estimates of $1 million to $2 million just to pass-through a network or syndicated delivered HDTV signal. Assuming a 9.0% fixed interest rate and a seven year loan, this would result in an additional expense of $199,000 to $397,000 each year for every television station. For the many stations that are already losing money, this additional expense will make a bad situation even worse. For the remaining stations who are showing slight profits, these additional expenses will eliminate or severely cut into the profits.

The ability of television stations to invest large sums of money for HDTV implementation differs considerably by market. Stations in the top 25 markets are best suited, given their revenue base (in 1990, the average station's net revenue in ADIs 1-25 was over $40 million)[35/]. Stations in slightly smaller markets will find it more difficult since their revenues are noticeably smaller (in 1990 the average

35/ 1991 NAB/BCFM Television Financial Report.

station's net revenues in ADIs 26-100 was $10 million)[36/]. Finally, stations in the smallest markets, where the average station was losing money even before the recession, will find it most difficult to quickly generate large capital amounts given their limited revenue base (in 1990 the average station's net revenues in ADIs 101+ was only $4 million)[37/] one-tenth of that of the largest markets.

III. THE COMMISSION SHOULD DEFER SETTING AN HDTV CONSTRUCTION DEADLINE OR SHOULD NOW SET A DEADLINE OR DEADLINES THAT WOULD ACCOMMODATE A STAGGERED IMPLEMENTATION SCHEDULE.

As we have said, NAB appreciates the Commission's reasoning as to the need for a specific implementation timetable. But we believe, and have demonstrated here, that the schedule the Commission has set does not allow for any meaningful staggered implementation and accompanying economies of scale and time, does not adequately allow for likely and acknowledged complications[38/] extending the time estimates for implementation and does not acknowledge that the financial condition of stations in the majority of

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36/ Id.

37/ Id.

38/ We would find it hard to believe that the Commission would prefer to accommodate the likely and nation-wide implementation complications and delays we have discussed above with mass extension requests, rather than with an extended or staggered construction schedule. Surely the Commission would rather see stations, particularly those already financially hard-pressed, put their monies into HDTV implementation rather than into costly and unproductive extension requests.

television markets suggests the need for some time for medium and smaller stations to be able to spread out these huge capital investments and, as well, be able to benefit from scale and time economies in costly equipment[39/].

We further believe that the Commission's announced intention to set a strict, specific construction timetable at a date certain will make the same point as will the setting, now, of a specific schedule. Waiting to determine a construction deadline once the process is underway will afford the Commission the benefit of better and more estimates of costs, resources, revenues, and receiver penetration. From such estimates the Commission could set a schedule it could be comfortable would comport with market realities as to "timely" investments for variously situated broadcasters.

But should the Commission persist in its perceived need to now establish a specific construction schedule, we here plead for the Commission to set a schedule that will allow for, or even designate, some staggering of construction, by and within markets. Only in this way can far less able stations garner the economies of scale and time initiated by the earlier construction of large well-off stations. And only in this way can there be an effective,

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39/ Should the Commission decline to defer, extend or stagger the HDTV construction schedule, NAB pleads for an extension policy that would include a demonstration of financial incapability to construct according to the schedule, but of scheduled capability by a date certain.

workable, realistic transition to bring high definition television to the American public.

The Commission should not be concerned that ATV implementation will be unduly delayed by adopting a revised construction schedule that allows for staggered implementation by market size. Competitive market pressures coupled with financial capability will speed along HDTV construction in the largest markets. These competitive market forces will spur most all financially capable stations in the largest markets to begin and move along HDTV implementation -- as soon as one station in the market takes the lead. And many stations have indicated that they will be in the HDTV vanguard.[40/]

In fact, these competitive market pressures will have much the same result even outside of the largest markets for stations who can possibly move to early implementation will do so to give competitive advantage. There will be many vanguard "HDTV builders" beyond the top markets. For example, the Fox stations have indicated that they intend to be in this vanguard, and there is a Fox-owned station in Salt Lake City, which is in ADI market rank 42.

NAB would suggest that the Commission, if it declines to defer setting a schedule, extend the across-the-

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40/ "Fox Executive Says Broadcasters May Use Cable for HDTV," Communications Daily, April 15, 1992, at 4. "HDTV: Hardware Begins to Replace Theory," Broadcasting, April 20, 1992, at 24.

board schedule to a point calculated to insure economies of scale for those less and least financially capable, and rely on competitive market forces to insure earlier HDTV implementation in the largest (and other) markets. In this way, the small and struggling stations in large markets would not be caught up in an earlier deadline applicable to the large markets.

If, however, the Commission determines it must have some earlier deadline to guarantee substantial early implementation, NAB respectfully suggests that such a deadline apply only to the largest markets. Thus the most financially capable stations, with the largest viewership, will lead the implementation and begin the process towards the economies of scale so needed by the medium and small market stations.[41/]

And the Commission can rest assured that HDTV implementation would proceed apace with the large markets leading the way, because, naturally, large populations are centered in those markets. The top 25 markets represent

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41/ To review the financial disparities among markets, the average station in the top 25 markets in 1990 had net revenues of slightly over $40 million, whereas the average station in markets 26-100 had 1990 net revenues of $10 million (or one-quarter of the former) and the average station in the smallest markets (ADIs 101+) had 1990 net revenues of only $4 million (one-tenth that of the largest markets) and was losing money even before the recession. 1991 NAB/BCFM Television Financial Survey. Under the Commission's schedule as adopted, all these stations would have to incur the premium costs of first generation equipment.

just under 50 per cent (49.6%) of all U.S. television households. The next 25 markets (ADIs 26-50) represent an additional 17.51 per cent of U.S. television households. Together the top 50 markets serve over two-thirds (67.11%) of all television households. The next 50 markets (ADIs 51-100) have 18.85 percent of television households. (Together markets 26-100 represent over one-third, 36.35%, of TV households.) The smallest markets (ADIs 101+) have only 14.04 per cent of television households.

Thus, the largest markets, with the most financially capable stations and the most competition for the biggest advertising dollars, serve the greatest populations, which could purchase the most HDTV receivers. Thus HDTV can be implemented on a staggered basis, without creating a completely untenable situation for the less and least capable stations.[42/]

IV. CONCLUSION

For the above-discussed reasons, and to insure the smooth, swift and successful implementation of HDTV for the benefit of the American viewing public, the National

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42/ The Commission, under a mandated staggered schedule (rather than an extended, across-the-board schedule that would enable staggered implementation to naturally occur), would still need to provide a relief mechanism for the small, financially far less capable (and even struggling) stations in the largest markets. These stations, with greatly reduced viewership from that of the large stations, would not be so necessary to drive HDTV implementation in those markets.

Association of Broadcasters petitions and pleads for a deferred or revised HDTV construction schedule.

Respectfully submitted,

NATIONAL ASSOCIATION OF
BROADCASTERS
1771 N Street, N.W.
Washington, D.C. 20036

Henry L. Baumann
Exec. Vice President &
General Counsel

Valerie Schulte
Sr. Associate General
Counsel

Counsel

Mark Fratrik
Vice President, Economist
NAB, Research & Information Group

Lynn Claudy
Director, Advanced Eng. & Technology
NAB, Science & Technology Dept.

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