

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Authorizing Permissive Use of the Next)	GN Docket No. 16-142
Generation” Broadcast Television Standard)	
)	
Amendment of Section 73.626 of the)	
Commission’s Rules to Facilitate the)	
Deployment of Single Frequency Networks)	

To: Office of the Secretary

REPLY COMMENTS OF ARK MULTICASTING, INC.

ARK Multicasting, Inc. (“ARK”) filed opening comments on the Joint Petition for Rulemaking filed in this docket on October 3, 2019.¹ ARK replies here briefly to some of the other parties’ opening comments. In some cases they raised points worth considering, but others suggested that the Commission not only should upset the delicate balance that it created when it adopted the current DTS rules in 2008, but should do so “quickly.”² And they do so by relying on a single passage in the 2008 DTS order³ while totally ignoring the Commission’s extensive discussion in that same order which soundly rejected the arguments of parties who wanted to expand the coverage areas of DTV stations.⁴

Perhaps the most sensible and cogent argument in the opening comments was that of the National Translator Association (NTA), which concluded:

¹ Filed by America’s Public Television Stations (APTS) and The National Association of Broadcasters (NAB)(hereafter, “Petition” or “JPRM”).

² E.g., opening comments of One Media 3.0, LLC at 2 and Meredith (Nov. 12, 2019).

³ *Digital Television Distributed Transmission System Technologies*, 23 FCC Rcd 16731, ¶ 14 (2008)(hereafter “DTS Order”).

⁴ See, e.g., Pearl TV Comments at 2 (Nov. 12, 2019) and discussion below.

Section 73.626 rules and related policies should not be subject to revision though rule making in the present state of the art. The public interest in receiving Free TV is protected by the Commission’s 5 year transition plan which uses additional frequencies for duplication of service. NTA believes that this plan should stay in place and that no public interest is served by placing these rules in question now. Instead, they can be considered at a later date when Next Gen services have begun to establish a measurable track record.⁵

Rather than quickly rushing into complex and questionable policy changes and reversals as some urge, the Commission should give the market time to implement the rules that were carefully crafted to take advantage of new technologies. As ARK and Microsoft both discussed in their opening comments, the promises of DTS, ATSC 3.0, and TV white spaces (TVWS) are being rolled out in rural America now. These roll outs are enabled by and rely on the regulatory balance the Commission struck beginning in 2008. Creating another round of regulatory uncertainty is likely to chill those deployments in some measure and for no material public interest benefit.

Finally, ARK will briefly note that one commenter stated that “the intention behind the DTS rules, in the Commission’s own words, was to ‘distribute more uniform and higher-level signals throughout a DTV station’s service area.’”⁶ ARK is in complete agreement with this one goal, but that was not the only intention of the DTS Order – far from it. The Commission also made a firm policy decision reject the “expanded area approach”⁷ for numerous reasons. *See* DTS Order, ¶¶ 13-20. Those reasons included: avoiding conferring new spectrum rights to broadcasters, protecting localism, “preserving opportunities for new stations, including low-power stations,” and not affording “dramatically expanded ... coverage rights.”⁸ And the Commission expressly

⁵ Comments of the National Translator Assn. at 2-3 (Nov. 12, 2019)(bolding in original, underlining added).

⁶ Pearl TV Comments at 2.

⁷ Which was essentially the same as the Petition’s request to allow DTS transmitters to extend the existing protected contours of FPTV stations.

⁸ DTS Order, ¶¶ 13-14, 18 (emphasis added). *See also, id.*, para. 20 (“The Commission ... remain[s] troubled by the implications of allowing significantly greater coverage for DTS than the coverage that can be achieved by a

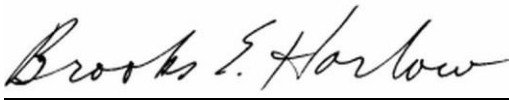
contemplated DTS “transmitters at lower power and height.”⁹ All of these issues are touched on in ARK’s opening comments, particularly the need to continue to protect LPTV licensees and CP holders and applicants.

If the Commission issues an NPRM on the Petition that makes it clear that the “opportunities for new stations” will be preserved even if changes are made, then at least LPTV will be able to continue to deploy the promising new technologies absent undue regulatory overhang. However, the Commission should also consider that even if it fully protects LPTV as ARK has encouraged, that would not protect consumers that rely on services provided by TVWS.

Conclusion

For the foregoing reasons and for the reasons in ARK’s opening comments, the public may be best served by simply deferring any action on DTS for the foreseeable future. If an NPRM were to be issued, it should make clear that LPTV will be protected, as both Congress and the Commission itself have articulated.¹⁰

Respectfully submitted,

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traditional single-transmitter station. We find that it is not appropriate at this time to expand significantly the coverage rights of some stations by allowing DTS operation on a primary basis beyond a station's authorized maximized area....”).

⁹ DTS Order, para. 14.

¹⁰ See, e.g., 47 USC 1452(b)(5); DTS Order, para. 18.