

(1981).

D. Other Matters

51. Accordingly, the Commission adopts this Notice of Proposed Rule Making pursuant to the authority contained in Section 4(i) and (j) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154 and 303.

52. For further information regarding this proceeding, contact Gina Harrison, Legal Branch, Policy and Rules Division, Mass Media Bureau (202) 632-7792, Gordon Godfrey, Engineering Branch, Policy and Rules Division, Mass Media Bureau (202) 632-9660, or Alan Stillwell, Office of Engineering and Technology (202) 653-8162.

FEDERAL COMMUNICATIONS COMMISSION



Donna R. Searcy
Secretary

APPENDIX A

INITIAL REGULATORY FLEXIBILITY STATEMENT

I. Reason for the Action

1. This Notice of Proposed Rule Making suggests policies and rules for implementing Advanced Television (ATV) service in this country.

II. Objectives of the Action:

2. It is intended that the comments engendered through this action will resolve some of the issues surrounding the introduction of ATV service in the United States. The record established from comments filed in response to this Notice of Proposed Rule Making, as well as other Commission decisions, and the combined efforts of the Commission, the affected industries, the Advisory Committee on Advanced Television Service, and the ATV testing process, will lead to implementation of ATV in the most harmonious fashion and to selection of the most desirable ATV system.

III. Legal Basis:

3. Authority for this action may be found in 47 U.S.C. §§ 154 and 303.

IV. Reporting, recordkeeping and other compliance requirements:

4. Such requirements will vary according to the decisions that are ultimately made as to the application and allocation procedures.

V. Federal rules which overlap, duplicate or conflict with these rules:

5. There are no rules which would overlap, duplicate or conflict with these rules.

VI. Description, potential impact and number of small entities involved:

6. There are now 1465 UHF and VHF broadcast television licensees who would be eligible to apply for an ATV frequency if it is decided to limit initial applications to existing broadcasters. Eligibility would be extended to full-service television licensees, permittees and parties with applications pending as of the adoption of this Notice. These broadcasters would also be affected by any requirement to simulcast a minimum amount of programming on their NTSC and ATV channels. These same broadcasters could be affected by the type of ATV standard selected and by other aspects of ATV service which are still under consideration. For example, we propose that ultimately all existing broadcasters would be required to "convert" entirely to ATV, surrendering one 6 MHz simulcast frequency and broadcasting only in ATV. Additionally, other potential ATV applicants who are not existing broadcasters, as well as electronic appliance retailers, and broadcast

equipment suppliers could be favorably affected by the decisions reached in this proceeding. The impact, if any, on noncommercial licensees or potential noncommercial licensees would be minimal, in light of our tentative conclusion that ATV channels may for the most part be allotted to the noncommercial reserve, and that the noncommercial reserve would in most cases not be used for ATV assignments. It is likely that a decision to use existing broadcast band spectrum for ATV service would displace to some degree low power television (LPTV) and translator stations operating in or near major markets. It is less clear that LPTV and translator stations operating in rural areas also might be displaced. Finally, the potential of ATV to affect small entities beyond the broadcast industry is as yet undetermined, but ATV equipment is already in use in such fields as medicine, teaching, and printing, and may spur new or expanded business in these and other areas.

VII. Any significant alternatives minimizing the impact on small entities consistent with stated objectives:

7. We propose to limit ATV applications to existing broadcasters only as an initial matter. Ultimately, eligibility for ATV frequencies would be unrestricted. In addition, we propose that any qualified applicant could apply for an ATV channel after it is determined that a given NTSC licensee has failed to construct an ATV facility within the proposed time limit of two years from date of issuance of the permit. Under our proposal, existing broadcasters also risk losing their priority for ATV frequencies if they have not filed an application for a construction permit for an ATV channel within three years from the time that ATV allotments are made. All of these proposals should soften the advantage that existing broadcasters may gain over other ATV applicants through the initial restriction.

8. We seek to minimize delay and needless expense (for both the Commission and prospective applicants) by proposing to allot ATV frequencies to each community of license currently listed in the Table of Allotments and to treat all applicants for ATV channels within a given community as mutually exclusive with all other applications for channels within that community. We propose several options for assigning particular channels where there is sufficient frequency for all eligible applicants. One approach is to formulate a Table of Allotments which not only allots channels to each community, but also randomly pairs particular ATV channels with existing NTSC channels listed on the table. A second option is to follow a two-step procedure of allotment to community followed by channel assignment to licensees. After allotment, we would permit existing NTSC licensees to apply for a construction permit on a first-come, first-served basis. If more than one broadcaster applied for the same channel, we would randomly rank applicants so that the highest ranked applicant would be granted its first choice, and so on. Another, supplemental approach would also permit parties to negotiate channel changes among themselves after they had been awarded a channel, on condition that any profits derived therefrom be used for operation of an ATV facility. Finally, we might consider requiring broadcasters to demonstrate their financial qualifications to build and operate an ATV channel, as a deterrent to "warehousing" frequencies. In a rare case of insufficient ATV channels for all initially eligible applicants, we propose use of objective criteria or a lottery pursuant to

47 U.S.C. Section 309 (i). All of these proposals would speed the licensing process and involve less expense for existing licensees, than if, for example, a comparative hearing procedure were used.

9. Given the important role that noncommercial stations play in the broadcasting industry, we intend to maximize the opportunity noncommercial interests have to take part in ATV, and to ensure that any negative effects on them are minimized. Technical studies indicate that it is unlikely that vacant noncommercial allotments will be used for ATV service and it is likely that such vacant channels can be paired with an ATV channel in most cases. In no case would a VHF channel assignment reserved for noncommercial purposes be used for commercial ATV. Also, as indicated in the proposed implementation plan, new noncommercial applicants would be able to petition for a rulemaking for an additional allotment after the ATV allotment table is adopted and would be able to seek a channel assignment for such new allotment or apply for ATV assignment when an existing broadcaster fails to comply with the application and construction deadlines. We have further tried to limit the negative impact to displaced LPTV and translator stations by continuing to allow a displaced LPTV station to file a noncompetitive application for another channel in the community.

10. In proposing a three-year time limit for submitting an application and a two-year time period for actual construction, we intend to permit broadcasters ample time to adjust to the conversion to ATV.

11. Moreover, we are aware that conversion from NTSC to ATV will not happen overnight, and we are allowing for a transition period before the NTSC frequency must be surrendered. However, a definite point must be established for determining the most efficient use of the 6 MHz "simulcast" channel awarded to existing broadcasters in order to effectuate a transition to ATV. If ATV is successful at that point, NTSC broadcast would largely cease.

APPENDIX B

High Definition Television: Transition Scenario for TV Stations:
A CBS Work-in-Progress
(October 23, 1990 Preliminary Results)

OET Technical Memorandum, FCC/OET TM89-1
(December, 1989)

Interim Report: Estimate of Availability of Spectrum for Advanced Television
(ATV) in the Existing Terrestrial Broadcast Bands,
FCC/OET TM88-1

Preliminary Analysis of VHF and UHF Spectrum Scenarios -- Part III, Advisory
Committee, Planning Subcommittee, Working Party 3, Doc. 0174
(June, 1991)

Advisory Committee Planning Subcommittee Fourth Interim Report

Fourth Interim Report of the Working Party 5 on Economic Factors and Market
Penetration of the Planning Subcommittee of the Advisory Committee on
Advanced Television Service
(March 4, 1991)

PBS Engineering: Preliminary HDTV Estimates
(October, 1990)

Selected Issues Interoperability, Extensibility, Scalability, and
Harmonization of HDTV and Related Standards, Comments to the FCC
prepared by the Committee for Open High Resolution Systems
(May 7, 1991)



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

**STATEMENT OF CHAIRMAN ALFRED C. SIKES
ON ADVANCED TELEVISION SYSTEMS
(MM DOCKET NO. 87-268)**

In an effort to lay the groundwork for advanced television in the United States, the FCC nineteen months ago endorsed a simulcast approach. This unprecedented move allowed leading companies worldwide to develop the most advanced system possible for the U.S. and held out the hope to the broadcast industry that it would be able to usher in a new generation of TV, not find itself in a technological junkyard.

All of us have been encouraged by the extraordinary developments of the last year and a half which seem to put the U.S. in the position of offering the world the first digital broadcast television system. However, recent statements concerning large screen NTSC as an alternative to HDTV have raised concerns that at least some in the broadcast industry regard the economics of HDTV as unattractive.

Questions affected by mass media economics and anticipated commercial developments are raised in this proceeding. And, while most broadcasters remain enthusiastic about advanced TV, I invite broadcasters to update the record on their interest in this technology.

The Commission has set aside spectrum for the purpose of making HDTV possible for broadcasters, not just the other video media. If the record indicates, however, that broadcasters, guided by their view of future economics, are losing interest in HDTV, then valuable UHF spectrum could be used for new land mobile services.