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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service Fourth Further Notice of Proposed Rule Making and Third Notice of Inquiry	)))))))))	MM Docket No. 87-268

COMMENTS OF Antenna Concepts, Inc.

Antenna Concepts, Inc., ("Antenna Concepts") hereby submits its comments in the proposed rulemaking Fourth Further Notice of Proposed Rule Making and Third Notice of Inquiry ("NPRM"). Antenna Concepts seeks to comment on the adverse effects of the policies set forth in this NPRM on low power television.

Antenna Concepts, a manufacturer of broadcast antennas for television and FM use. Antenna Concepts believes Advanced Television (ATV) could be the end for LPTV, however, by properly designing a transition, both community broadcasters and full-service broadcasters can benefit by a mutually engineered transition from National Television System Committee (NTSC) to digital television (DTV). The most logical scenario would include LPTV in transition to DTV rather than excluding them from the many benefits of DTV. Antenna Concepts firmly believes in a having the LPTV and full service-broadcasters work in joint venture. If full service broadcasters can avail themselves of the frequency

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allocation already in use by LPTV broadcasters, a less expensive transition can be accomplished providing the community with greater access to a variety of broadcast outlets than would otherwise be available.

POTENTIAL ADVERSE IMPACT OF THE COMMISSION'S ATV PROPOSAL ON THE COMMISSION'S LONG STANDING POLICY OF FOSTERING PROGRAMMING AND OWNERSHIP DIVERSITY.

Since the inception of the Communications Act of 1934, it has been the intent of the Federal Communications Commission (referred to "FCC" or "Commission") to establish broadcast station ownership patterns that represents the views of the public as these relate to the diverse communications industries and sub-industries. One of the basic underlying considerations of the 1934 Act was the desire to effectuate policy that discouraged the formation of monopolies in broadcast and effectuate ownership policies that would as a result diversify program content.[1]

With this in mind, the Commission has set precedent with its adoption of various policies and programs which are intended to minimize whatever negative effect small entities might face in the advent of new rulemakings and new technologies.[2] For the purpose of this proposed rulemaking Fourth Further Notice of Proposed Rule Making and Third Notice of Inquiry ("NPRM"), Antenna Concepts seeks to comment on the adverse effects of the policies set forth in this

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[1] See Section 307 of the Communications Act relating to the efficient distribution of the spectrum.

[2] See, for example, the small business protections adopted by Congress in the auction provisions of the Communications Act.

NPRM on low power television. These effects are a result of the Commission's decision to exclude low power television broadcasters from this important rulemaking and thus continue to maintain the LPTV's industry secondary status in television broadcasting.

Throughout the creation of the diversity policies for television broadcast service, the Commission adhered to the principle that diversification better serves the needs of the public at large. The Commission firmly stated that the vitality of the U.S. system of broadcasting depended largely on a diversified ownership and, hence, diversification of programming and service content.

The low power television[3] medium is a niche broadcasting service with the potential to provide specialized programming to specialized markets, particularly underserved and ethnic communities. According to industry experts, approximately 42% of LPTV stations provide the public with programming for special demographic populations, reflecting fulfillment of the Commission's initial goal when establishing LPTV service in 1983. Moreover, LPTV stations on the air in the U.S. now number more than 1751 stations.[4] The present LPTV figure comprises 1193 UHF and 558 VHF stations, compared to the nation's full power commercial and educational stations which now number approximately 1,542 stations.[5]

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[3] Report and Order, March 4, 1982

[4] Part 74 CFR and Report and Order, 1982.

[5] See station totals in most recent Public Notice.

Despite the growth in ownership in the LPTV industry and the fact that LPTV broadcasters have made great efforts in the last decade to acquaint the various Commissioners with the unique and diverse services that LPTV provides to the public and record the successes that the LPTV industry has achieved with the Commission's stated goals of providing universal, over-the-air television service, the Commission's Fourth Notice of Proposed Rulemaking and Third Notice of Inquiry has excluded low power broadcasters from any consideration in the transition plan and the proposed statement of proposed ATV policies.

Antenna Concepts is clear about the increased range of new service capabilities that digital technology will bring to television, as well as the capability to deliver multiple program streams over one 6 MHz channel that the conversion to digital will bring. But Antenna Concepts' reasons for these promised new services justify not including this segment of the television broadcasting industry in this ATV rulemaking. The Commission has stated that its initial reason for exclusion LPTV to be that the broader public interest would be best served by limiting initial channel allocation to existing eligible broadcasters, but are not over 800 licensed LPTV entrepreneurs broadcasters? Broadcasting is exclusively and exactly what we do.

In compliance with the Commission's principles of diversification of ownership, and universal service[6] and the U.S. Constitution, any technical standards used to develop an allotment

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[6] See Sixth Report and Order (1952).

table should be readily and equally available to all broadcasters and the diverse audiences they serve, not just full power broadcasters. To exclude LPTV broadcasters from the ATV proceeding is to say that the Commission does not believe in its long stated standard that the public interest of all Americans would be served if all Americans could participate in the continued reception of television.

II. POTENTIAL IMPACT ON THE COMMISSION'S OBJECTIVE OF PROMOTING DIVERSITY OF VIEWPOINTS IN A DIGITAL WORLD.

The Commission should continue to value localism in an era of megamergers. LPTV is one of the few remaining services that focuses on local content. It is the local programming of that low power television broadcasters that bring services and programming to the underserved and ethnic communities throughout the U.S. Furthermore, part of the Commission's goals in inaugurating LPTV service were to bring local programming to communities that had never been served or had been underserved by full power television. Equally as important, was the desire to increase diversity in ownership in television broadcasting among women and minorities, since entrant of minorities in full power television is lower than that of LPTV due to the lack of access to capital by minorities. Currently there are 31 full power TV stations owned by minorities versus 124 LPTV stations owned by minorities.

III. POTENTIAL IMPACT OF SPECTRUM RECOVERY AND CREATION OF CONTIGUOUS BLOCKS OF SPECTRUM ON LOW POWER TELEVISION BROADCASTERS.

With respect to the recovery of spectrum, in the Second Report/Further Notice, the Commission put broadcasters on notice

that when ATV becomes the prevalent medium, broadcasters would be required to surrender a 6 MHz channel and cease broadcasting in NTSC.[7] Later, in the Third Report/Further Notice, the Commission stated its plan to award broadcasters interim use of an additional 6 MHz channel to permit a smooth, efficient transition to an improved technology with as much certainty and as little inconvenience to the public and the industry as possible.

It is evident that the Commission remains committed to the recovery of spectrum to full power broadcasters, yet it not evident that the Commission remains committed to ownership rights of LPTV broadcasters with the advent of digital technology, with the possibility of eliminating a vast number of existing LPTV licensees. Furthermore, the Communications Act of 1934 mandates that the Commission allocates spectrum in a manner which is, among other things, efficient. 47 U.S.C. Section 307 (b). And as stated by Chairman Reed Hundt in his speech at the Pittsburgh Law School, the Commission ought to apply the public interest standard, with concrete duties imposed on broadcasters.

IV. POTENTIAL IMPACT OF THE EXCLUSION OF LPTV BROADCASTERS ON EFFECTS OF ATV TRANSITION TO SMALL MARKET BROADCASTERS

LPTV stations should not be displaced only when an alternative is not available. Adequate notice of any proposed allotment table should be given, along with disclosure of all technical standards so LPTV broadcasters may recommend changes in individual allotments

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[7] Second Report/Further Notice, 7 FCC Rcd 3340, 3353 (1992).

that will minimize any adverse impact upon them.

V. HOW THE COMMISSION CAN ACCOMMODATE LPTV BROADCAST STATIONS IN THE TRANSITION TO DIGITAL TELEVISION

LPTV stations should be given an opportunity to apply for the remaining ATV spectrum after full power stations have applied for ATV spectrum, or given the opportunity to enter a joint venture with full service broadcasters. Furthermore, any spectrum repackaging or recapture should consider perhaps establishing a guard band between full power TV and nonbroadcast services and therefore taking LPTV- broadcasters into account.

Antenna Concepts supports the comments which oppose the Commission's exclusion of LPTV as primary licensees in the new ATV service. Antenna Concepts firmly believes that this action by the Commission is a violation of the Constitutional rights of the LPTV broadcasters.

Wherefore, for the foregoing reasons, Antenna Concepts, respectfully submits that the Commission should revise its proposals in its Fourth Further Notice of Proposed Rulemaking and Third Notice of Inquiry to insure a more spectrally efficient ATV

allotment table and to accommodate low power television broadcasters with an ATV simulcast channel.

Respectfully submitted,

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