

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of:)
)
Advanced Television Systems) MM DOCKET NO. 87-268
and their Impact Upon the)
Existing Television)
Broadcast Service)

TO: The Commission

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COMMENTS OF
YONEIDE DINZEY CONSTRUCTION PERMIT OWNER
OF W61CZ

I, Yoneide Dinzey, hereby submit my Comments in response to the Commission's Sixth Further Notice of Proposed Rule Making ("Sixth NPRM") in the captioned proceeding, in which the Commission proposes to allot a second 6 MHz channel to each full power television station for digital television ("DTV") purposes, in a manner estimated to result in the destruction of up to 45% of all existing low power television ("LPTV") stations. Sixth NPRM, ¶ 66. Such a proposal would be devastating to me as an individual LPTV owner and on a to the viewers in the area I will be broadcasting.

W61CZ is located in Van Wert, Ohio and will broadcast programming based on the 27 Fundamental Beliefs of Seventh Day Adventists. The Seventh Day Adventist Church has 8 million members worldwide. The membership of the North American Division exceeds 800,000 people served by more than 4,600 churches.

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Upon completion this LPTV station will offer more than religious programming to its many viewers. Its programming includes many health-related and educational programs, transmits multilingual programming and serves minorities and communities not otherwise served by any other full power or LPTV stations.

The loss of up to 45% of LPTVs would be devastating to viewers, throughout the U.S. It would cause financial destruction to most LPTV owners, a loss of employment to staff for these stations, and many other numerous detrimental affects.

Both Congress and the Commission have extolled the benefits of LPTV stations, yet the Commission's current proposal relegates its recognition of these benefits to mere lip service.¹ There is nothing in the Communications Act that *requires* the Commission to allot second 6 MHz channels to all full power television stations and to give these channels away for free, even at the expense of numerous LPTV stations that will be lost in the shuffle. LPTV stations not only fail to benefit from this giveaway, but must suffer a tremendous net

¹For example, in urging cable must carry rights for LPTV, Congressman Markey stated that, "low-power television stations that originate programming often provide the only local television service to small communities and to minority, ethnic and specialized interest groups. . . . We should encourage the development of these low-power stations." 136 Cong. Rec. H. 7249-02, H. 7266 (1990). Additionally, in passing copyright legislation rendering LPTV stations "local" for copyright purposes, Senator Mathias stated, "As long as we continue to make the benefits and burdens of compulsory licensing available for full power television, I think it is only fair and equitable to treat low power television in a consistent manner." See 123 Cong. Rec. S. 11109-01 (1986). Senator Leahy added, "I think the public interest will be well served by fulfilling the promise of low power television to expand the choices and viewpoints available to television viewers." *Id.*

loss of service as envisioned by the Commission's proposed allotment scheme. Perhaps most devastating to the LPTV service is the Commission's proposed "recovery" of Channels 60-69. The loss of 35%-45% of all existing LPTV operations in the Commission's current proposal is proof that the broadcast band does not have ten channels to spare. The Commission's consideration of an auction for such channels in the face of such a massive loss of LPTV service suggests that the Commission is putting monetary considerations ahead of the public interest.

As recently as 1994, the Commission recognized that:

The LPTV service is more than meeting its expectations. Today 1400 LPTV stations serve diverse audiences in more than 750 communities and in all 50 states. These communities range in population from the hundreds to the millions. The hallmarks of the LPTV service are TV "localism" and specialized "niche" programming. . . . The LPTV service also has contributed to increased diversity in broadcast station ownership. LPTV station licensees include schools, colleges, churches, community groups, newspaper publishers and radio and TV broadcasters.

First Report and Order in MM Docket No. 93-114, 9 F.C.C. Rcd. 2555, ¶¶ 2-3 (1994).

Although LPTV is a secondary service subject to displacement by full power stations, the Commission implicitly recognized the public interest benefits and audience loyalty attributable to LPTV stations when it imposed an application freeze on LPTV in the same markets in which it had earlier frozen full power applications in anticipation of DTV. *See Public Notice*, Mimeo No. 12124 (released Mar. 12, 1991). The Commission froze new LPTV stations in these areas "to minimize the extent to which low power TV and TV translator service to the public may be disrupted." *Id.*

The Commission took further steps to "contribute greatly to the orderly development and stability of the low power television service," when it adopted its "displacement" policy, permitting LPTV stations that are displaced by conflicting primary services to move to a different channel without facing competition from other applicants. *Report and Order* in MM Docket No. 86-286, 2 F.C.C. Rcd. 1278 (1987). Naturally, we applaud the Commission's proposal to "continue to permit displaced low power stations to apply for a suitable replacement channel in the same area without being subject to competing applications" in the context of the DTV proceeding. *Sixth NPRM*, ¶ 67. We also applaud the Commission's proposal to permit LPTV operations on channels outside the core digital TV spectrum. *Id.*, ¶ 68. However, more can and should be done to protect the LPTV service and to prevent the loss of up to 45% of all LPTV stations.²

Since the Commission is proposing to give second channels to full power licensees without charge, it only makes sense to have those licensees compensate existing LPTV stations for any required move or displacement, as suggested in paragraph 68 of the *Sixth NPRM*. It is the LPTV licensees who can ill afford additional expenses, much less a

²In the *Second Report and Order* in this proceeding, the Commission stated that it would "not deviate from established precedent and afford a preference to translators over low power stations should displacement be required." 7 F.C.C. Rcd. 3340, ¶ 41 (1992). We note, however, that in the *Sixth NPRM*, the Commission states that "about 80-90 percent of all TV translators would be able to continue to operate" under the Commission's current proposal while only "about 55-65 percent of existing LPTV operations" would be saved. *Sixth NPRM*, ¶ 66. We assume this disparity results from the fact that TV translators tend to be in more remote areas where there are fewer full power licensees, and thus, more channels are available. However, to the extent this represents a change in Commission policy favoring translators over the LPTV service, 3ABN strongly objects to such a discriminatory policy. Indeed, it can be argued that LPTV stations tend to be more localized, and thus, serve the public interest better than translators that are merely repeating the signal of a distant full power station.

cessation of all operations, while the wealthier full power licensees get a second equally valuable channel for free. This is perhaps the greatest example to date of the Commission allowing the rich to get richer while the poor become poorer. Perhaps it is too cynical to suggest that the Commission's allotment scheme confirms that "money talks." Yet, it does not take a brain surgeon to recognize that a loss of up to 45% of its existing stations would be devastating to the viewers.³

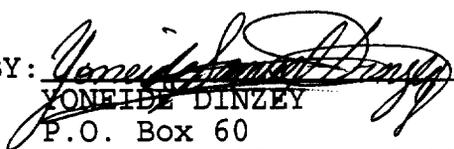
I, therefore, support all measures suggested by the Commission to preserve existing LPTV service, including (1) setting aside channels specifically for use by displaced LPTV stations (*Sixth NPRM*, ¶ 70); (2) taking terrain and other engineering factors into account and finding replacement channels, (*id.*, ¶ 71); (3) giving preference to LPTV over new broadcast applicants in seeking primary use of available DTV channels (*id.*, ¶ 72); and (4) requiring full power licensees to permit multiplexed use of their second channels by LPTV stations that would otherwise be displaced by the Commission's allotment scheme. (*Id.*) In those areas where LPTV service would be lost completely by awarding a second channel to all full power licensees (*i.e.*, because there would be no alternate channels available), the Commission should consider awarding second channels to fewer than all full power licensees. After all, full power licensees, like their LPTV brethren, are free to begin digital broadcasts on their primary channels at any time. In markets where there are more than 5 or 6 full power

³We assume that the predicted 35%-45% loss of all LPTV stations does not include those stations that will be displaced to different channels, even though such displacement inevitably incurs additional expense, loss of viewership and disruption to an existing and established service.

stations, we question whether the public interest requires all such stations to have dual allotments, if the end result is a net loss of service to the public.

In summary, we urge the Commission to put its money where its mouth is. In the instant Sixth NPRM, the Commission confirms yet again that it "continue(s) to recognize the benefits that low power stations provide to the public. LPTV stations have increased the diversity of television programming and station ownership, and served many rural and urban ethnic communities." (¶ 67). If the Commission is to truly "recognize" those benefits, then it cannot permit an allotment scheme to go forward that would result in the loss of 35%-45% of all existing LPTV operations, as its current allotment proposal would effect. Whether the Commission changes its allotment scheme, sets aside channels specifically for LPTV, or gives away second channels to fewer than all full power licensees, the Commission should not go forward with a plan that would result in a net loss of broadcast service to the public. Such a plan clearly disserves the public interest, defeats the recognized benefits of the LPTV service and hurts those who most need the Commission's help to survive.

Respectfully submitted,

BY: 

YONEIDE DINZEY

P.O. Box 60

Thompsonville, IL 62890