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Federal Communications Commission
Office of Secretary

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

In the matter of	)	
	)	
Preemption of Local Zoning Regulation of Satellite Earth Stations	)	IB Docket No. 95-59
	)	
Implementation of Section 207 of the Telecommunications Act of 1996	)	CS Docket No. 96-83
	)	
Restrictions on Over-the-Air Reception Devices: Television Broadcast and Multichannel Multipoint Distribution Service	)	

REPLY OF THE NETWORK AFFILIATED STATIONS ALLIANCE

The NBC Television Affiliates Association, the CBS Television Affiliates Association and the ABC Television Affiliates Association (together, the "Network Affiliated Stations Alliance" or "NASA") hereby submit this reply concerning their petition for reconsideration and clarification of the Order adopted in the above-referenced proceeding.[1/] As shown below, there is no opposition to the requests made in the NASA petition and, consequently, those requests should be granted.

1/ *Preemption of Local Zoning Regulation of Satellite Earth Stations, Implementation of Section 207 of the Telecommunications Act of 1996, Restrictions on Over-the-Air Reception Devices: Television Broadcast Services and Multichannel Multipoint Distribution Service,* Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, IB Docket No. 95-59, CS Docket No. 96-83, rel. Aug. 6, 1996 (the "Order").

The NASA petition sought reconsideration and clarification of the Order to assure that Section 207 of the Telecommunications Act of 1996 was fully implemented.[2/] The petition focused on two areas. First, NASA asked the Commission to clarify the Order and provide more definitive guidance concerning permissible and impermissible restrictions on over-the-air reception devices. In particular, NASA suggested that the Commission: (1) adopt limits concerning the additional cost a regulation can impose on a homeowner; (2) specify acceptable building code requirements based on existing model codes; and (3) prohibit restrictions that prevent placing a television antenna at the highest point on a homeowner's roof or chimney.[3/] NASA also urged the Commission to reconsider its decision to permit review of regulations of over-the-air reception devices in state-level courts. Requiring federal review of such decisions is necessary to avoid inconsistent decisions, undue burdens on homeowners, and the possibility that the Commission will lose its right to review a local decision.[4/]

There was no opposition to NASA's petition. For that matter, there was no request for reconsideration that was inconsistent with NASA's petition. All of the parties filing petitions for reconsideration or commenting on those petitions recognized the need for additional protection for users of over-the-air reception devices.

2/ Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56 (1996) (the "1996 Act") § 207.

3/ NASA Petition at 3-6.

4/ *Id.* at 6-9.

For instance, the National Association of Broadcasters (the "NAB") explained that "the Commission must ensure that its rules are clear and effective, and that there is a *federal-only* mechanism for resolving disputes concerning the applicability of these rules."[5/] Similarly, the National Rural Telecommunications Cooperative ("NRTC") explains that, in its efforts to be sensitive to local concerns, "the Commission may have inadvertently created a means by which a local governmental or non-governmental authority could circumvent the preemption policy through the exclusion provided for 'clearly defined safety objectives.'"[6/] At the same time, many parties echoed NASA's concern that permitting state courts to adjudicate antenna siting disputes will lead to disparate, even contradictory results.[7/] Moreover, and as NAB points out, NASA's proposals are more consistent than the current rules with Congressional intent to remove barriers to the placement of over-the-air reception devices.[8/]

In light of the unanimous support for NASA's proposals, and the important Congressional policy objectives that they would advance, the Commission should grant NASA's petition. Indeed, there is no justification for any other action.

5/ Comments of NAB at 3 (emphasis in original).

6/ Comments of NRTC at 2; *see also* Petition of Consumer Electronics Manufacturers Association at 4.

7/ *See, e.g.,* Petition of BellSouth at 18; Petition of DirecTV at 14; Comments of NRTC at 3.

8/ Comments of NAB at 2-3.

For all these reasons, the Network Affiliated Stations Alliance respectfully requests that the Commission reconsider and clarify the rule adopted in this proceeding as proposed herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Tammi A. Foxwell, a secretary at the law firm of Dow, Lohnes & Albertson, do hereby certify that on this 2nd day of December, 1996, I caused copies of the foregoing "Reply of The Network Affiliated Stations Alliance" to be served via first-class U.S. mail, postage prepaid, except where indicated as via hand delivery, to the following:

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