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FCC 96-317

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

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

MM Docket No. 87-268

In the Matter of )  
)  
Advanced Television Systems )  
and Their Impact upon the )  
Existing Television Broadcast )  
Service )

Sixth Further Notice Of Proposed Rule Making

**Reply Comments of the Benton Foundation**

January 24, 1996

Kevin Taglang  
Benton Foundation  
1634 Eye St, NW  
Washington, DC 20006  
benton@benton.org

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## **Summary**

- Benton calls for a rulemaking dedicated to setting public interest standards for DTV licenses. Benton believes that free, over-the-air broadcast television provides important information services and should be a vital part of the emerging wireless and wired NII. Benton proposes that it is time to address television content: programming diversity, children's television, and free time for political candidates. Benton believes that the public deserves a better return on its spectrum investment with broadcasters.
- Benton files supporting comments for the proposed rulemaking.

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## I. Introduction

### A) The Sixth Further Notice Of Proposed Rule Making

The Commission seeks comment on policies for developing the initial digital television ("DTV") allotments, procedures for assigning DTV frequencies, and plans for spectrum recovery.<sup>1</sup> The Commission further points out that the "overarching goals in this phase of the proceeding are to ensure that the spectrum is used efficiently and effectively through reliance on market forces and to ensure that the introduction of digital TV fully serves the public interest."<sup>2</sup>

In this NPRM, the Benton Foundation ("Benton") focused its comments on three interrelated issues: new entry into broadcasting, noncommercial allocations, and Low Power Television stations. Benton finds all three issues to come under one umbrella: diversity of ownership and viewpoint.

The Commission can guarantee that the public interest is served if it addresses the problems of new entry into broadcasting, noncommercial allotments, LPTV stations, and defining public interest obligations.

- LPTV stations must be part of the DTV picture and issues around possible destruction of stations should be settled before any digital licenses are issued. LPTV's important benefits to American culture should not be ignored. The Commission should adopt an allotment plan that includes LPTV stations and provides for their continued success in the era of digital television.
- The Commission has proposed possible channel sharing in digital broadcasting to lessen the impact on LPTV stations. Benton supports such a plan and believes that existing LPTV stations be given priority. But Benton also proposes that a channel sharing plan be expanded to include new entrants to broadcastings as well.
- Benton calls for a rulemaking dedicated to setting public interest standards for DTV licenses. Benton believes that free, over-the-air broadcast television provides important

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<sup>1</sup> Sixth Further Notice Of Proposed Rule Making ("NPRM") at ¶ 1.

<sup>2</sup> NPRM at ¶ 3.

information services and should be a vital part of the emerging wireless and wired NII. Benton proposes that it is time to address television content: programming diversity, children's television, and free time for political candidates. Benton believes that the public deserves a better return on its spectrum investment with broadcasters.

- Benton proposes that if noncommercial allotments are to be used to aid commercial broadcasters transition to DTV, these broadcasters should adopt some of the public interest obligations that would be fulfilled by noncommercial broadcast outlets. Benton suggests that defining the public interest obligations should occur in a separate rulemaking (outlined below in section V) and the rulemaking should take place before any digital licenses are issued.

## B) The Benton Foundation

Benton believes that communications in the public interest — including free, over-the-air broadcast television — is essential to a strong democracy. Benton's mission is to realize the social benefits made possible by the public interest use of communications. Benton bridges the worlds of philanthropy, community practice, and public policy. It develops and provides effective information and communication tools and strategies to equip and engage individuals and organizations in the emerging digital communications environment.

Benton's Communications Policy Project is a nonpartisan initiative to strengthen public interest efforts in shaping the emerging National Information Infrastructure (NII). It is Benton's conviction that the vigorous participation of the nonprofit sector in policy debates, regulatory processes and demonstration projects will help realize the public interest potential of the NII. Current emphases of Benton's research include extending universal service in the digital age; the future of public service in the new media environment; the implications of new networking tools for civic participation and public dialogue; the roles of states as laboratories for policy development; and the ways in which noncommercial applications and services are being developed through new telecommunications and information tools.

In April 1996, Benton began a series of ads on the new digital environment and the public interest. The first ad was an open message to broadcasters which appeared in the *Wall Street Journal* and *Broadcasting and Cable*. Benton called upon broadcasters to use the airwaves to initiate a real

debate over the future of television and the medium's potential to serve children better, to use interactive and on-demand features to provide the information people want and need every day, and to facilitate political debate.

Benton also devotes an entire section of our World Wide Web site to the debate over the future of television.<sup>3</sup> Recognizing the effect spectrum allocation played in the passage of the Telecommunications Act of 1996, Benton created this web site to educate the public about what's at stake and to include citizens and noncommercial interests in the debate. The site links to a number of diverse views on spectrum allocation for the transition to digital television and opinions on the public interest obligations broadcasters owe to their communities including children's educational television, community orientated programming, and free time for candidates.

## **II. The Commission Should Initiate a Rulemaking on the Public Interest Obligations of Broadcasters Before Issuing Any Digital Licenses**

Benton calls for a rulemaking dedicated to setting public interest standards for DTV licenses. Benton believes that free, over-the-air broadcast television provides important information services and should be a vital part of the emerging wireless and wired NII. Benton proposes that it is time to address television content: programming diversity, children's television, and free time for political candidates. Benton believes that the public deserves a better return on its spectrum investment with broadcasters.

As Benton has noted in previous comments in this same docket, programming quality, not picture and sound quality, may be the ultimate litmus test for a public that seems fairly uninterested in HDTV. The question that the Benton Foundation returns to is, What public interest is being served by the transition to DTV? Spectrum is a valuable public asset. As the Commission guides us through this transition, what gains will the American public see in children's educational television, the revitalization of public debate, the control of violence on television, and community access? If the public is to make this gift to broadcasters, what benefits will we see in the communities that broadcasters serve?

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<sup>3</sup> See URL <http://www.benton.org/Policy/TV/>

The Commission last asked for comment on public interest obligation in the Fourth Further Notice, before passage of the Telecommunications Act of 1996. At that time, Benton and others questioned the legality of issuing licenses without comparative hearings. Although the Telecommunications Act of 1996 gives the Commission authority to make these allocations without comparative hearings, section 336(a)(5) gives the Commission the authority to prescribe other regulations to protect the public interest in the transition to DTV. Benton suggests the Commission seek public comment on those regulations.

The Commission has proposed using noncommercial allocations to aid commercial licensees make the transition to digital television. Use of these noncommercial allocations should obligate commercial broadcasters to increased public interest obligations.

Increased ownership concentration puts responsive, local programming standards at risk. A notice on public interest standards should include a request for comments on how to best preserve local control of broadcast programming.

The Commission has recently issued rules to insure that there is an acceptable quantity of quality, children's programming available in every community. Broadcasters must air 3 hours out of 168 hours of available programming per week. Will this ratio remain the same when broadcasters can air 672 hours or more per week of SDTV programming?

During the past election cycle, the Commission addressed the issue of broadcasters providing free time for political candidates. These proceedings and the resulting airtime provided to the Republican and Democratic parties should serve as background for further discussion of revitalizing political debate.

On September 30, 1996, Chairman Hundt delivered "A New Paradigm for Digital Television" to an audience in New York City. In the speech, the Chairman outlined the importance and need for concrete public interest obligations. Benton cannot agree more. The underlying question of Benton, echoed by the Chairman in this speech is "How can we make sure that in a digital age broadcast TV continues to create the public good of a free medium serving the public interest?"

Benton looks forward to sharing proposals with the Commission, broadcasters, and the American public.

### **III. Connection Between This Proceeding and Common Carrier Docket No. 96-45**

Benton notes the irony that reply comments in both this proceeding and Common Carrier Docket No. 96-45 were originally both due January 10. As an active participant in both proceedings, Benton reminds the Commission to be mindful of the ever-changing communications landscape. When broadcasters adopt digital broadcast technology, they will be able to deliver a number of non-broadcast services to consumers. Broadcasters could become multi-channel operators, wireless telephony providers, and/or Internet service providers. And, as an Internet service provider, the broadcaster could deliver telephony, video, audio, and data. Will we continue to regulate "television" – which could be hardware that serves the function of a TV, phone, fax, pages, and computer – through the Mass Media Bureau when it delivers functions regulated by the Common Carrier and Wireless Bureaus as well? How will regulators respond to the shrinking differences between the telephone carrier and the television carrier when the latter can provide the function of the former? What universal service obligations might a broadcaster adopt when it begins to become a conduit for telephony?

### **III. Supporters of Benton Position**

Since the Benton filing in this proceeding, many organizations and individuals have filed informal comments via e-mail and sent copies of their filings to Benton. We now include these informal filings in our own comments.

From: "Carrick Mundell" <mundellc@bellevue.pti-enviro.com>  
Organization: PTI Environmental Services  
To: dtvallotments@fcc.gov  
Date: Wed, 27 Nov 1996 13:22:16 -0800  
Subject: Mass Media Docket no. 87-268  
CC: benton@benton.org  
Priority: normal  
X-Info: Evaluation version at bellevue-nt.pti-enviro.com

I'd like to express my support for defining broadcaster's public interest obligations before being granted digital television licenses.

Enhanced resolution without significant improvements to programming is a waste of time and money. Please take this opportunity to guarantee that this new technology will become a public benefit and not another public distraction.

For two generation broadcast television has been misused by corporations driven solely by the profit motive. Do what you can to ensure that digital TV doesn't follow the same deviant path.

Thanks.

Carrick Mundell  
public citizen  
Seattle, Washington  
mailto:mundell@halcyon.com

X-Sender: espinos5@mail.sdsu.edu  
Mime-Version: 1.0  
Date: Wed, 27 Nov 1996 11:49:44 -0800  
To: dtvallotments@fcc.gov  
From: Paul Espinosa <espinos5@mail.sdsu.edu>  
Subject: Mass Media Docket No. 87-268  
Cc: benton@benton.org

Dear Sirs,

I am writing to comment on Mass Media Docket No. 87-268. I strongly support the Benton Foundation initiative to define broadcasters' public interest obligations BEFORE they receive their digital licenses.

Paul Espinosa

@@@@@@@@@@@@@@@@@@@@@@@@@@@@

Paul Espinosa -- Producer/Writer/Director  
KPBS-TV, 4800 Marlborough Drive  
San Diego, CA 92116  
TEL: 619-594-5996 -- FAX: 619-265-6417  
email: Paul.Espinosa@sdsu.edu

@@@@@@@@@@@@@@@@@@@@@@@@@@@@

From: PEMorgan@aol.com  
Date: Wed, 27 Nov 1996 15:49:45 -0500  
To: dtvallotments@fcc.gov  
cc: benton@benton.org  
Subject: Mass Media Docket No. 87-268

This note is in reference to Mass Media Docket No. 87-268.

I support the concept of defining broadcasters' public interest obligations before they receive their digital licenses, and encourage you to institute a program which would formally specify the guidelines/rules which would govern their activities.

X-Sender: dmetzler@pop.ben2.ucla.edu  
Date: Wed, 27 Nov 1996 16:19:36 -0800  
To: dtvallotments@fcc.gov  
From: David Metzler <DMETZLER@ucla.edu>  
Subject: Mass Media Docket No. 87-268.  
Cc: benton@benton.org  
Mime-Version: 1.0

Hello,

I would like to urge your agency to require that broadcasters more clearly define their contributions to the public interest BEFORE being granted new digital licenses. These broadcasters will be receiving a limited resource, and as such should be required to use it in ways which reflect the public interest, not soely corporate profits.

Please let me know if you are seeking further input on Mass Media Docket No. 87-268.

Thank you,

David Metzler  
Interim Director  
International Student Center at UCLA

From: GQUINN@aol.com  
Date: Thu, 28 Nov 1996 10:49:29 -0500  
To: dtvallotments@fcc.gov  
cc: benton@benton.org  
Subject: Mass Media Docket No. 87-268

I'm writing to comment on Mass Media Docket No. 87-268. I believe the broadcasters' public interest obligations must be defined before they receive their digital licenses.

I support the Benton initiative to define broadcasters' public interest obligations in the digital age. As a producer I'm concerned that the public will have all its options when it is looking for quality programming.

Gordon Quinn  
Executive Producer "Hoop Dreams"  
Kartemquin Films  
1901 W. Wellington Av.  
Chicago Il 60647

Date: Thu, 28 Nov 1996 21:03:44 -0800 (PST)  
Mime-Version: 1.0  
To: dtvallotments@fcc.gov  
From: lls@earthlink.net (Laura Sigal)  
Subject: Mass Media Docket No. 87-268  
Cc: benton@benton.org

Re.: Mass Media Docket No. 87-268

I support the proposaal to have a rulemaking proceeding \*before\* allocating more broadcast spectrum. The rulemaking should address the public interest obligations that broadcasters should have in return for receiving more spectrum for the provision of digital television.

From: "robert huesca" <RHUESCA@Trinity.Edu>  
Organization: Trinity University  
To: dtvallotments@fcc.gov  
Date: Sat, 30 Nov 1996 11:07:45 -0500 (CDT)  
Subject: public comments  
Cc: benton@benton.org  
Priority: normal

to whom it may concern,

i am commenting on Mass Media Docket No. 87-268. i am a professor of communication who is interested in advancing public interest initiatives in our media environment. i understand that the fcc is currently considering how to go about licensing broadcasters using digital spectrum space. i am writing to let you know that i am in support of defining broadcasters' public interest obligations before they receive their digital licenses. i believe the state of public communication in the united states is embarrassingly poor. i believe the new digital licensing procedures provide an opportunity for the federal government to institute policies that will have far reaching, inexpensive, positive impacts on the state of public communication in the country.

please let me know if there is any other way in which i may participate in the review process that is currently underway at the fcc.

thank you,

-----  
Dr. Robert Huesca  
Trinity University  
Department of Communication  
715 Stadium Drive

San Antonio, TX 78212-7200  
work 210-736-8169  
home 210-829-4722  
fax 210-736-8355  
e-mail rhuesca@trinity.edu  
-----

Date: Mon, 2 Dec 1996 16:20:59 -0800 (PST)  
From: Mary Emery <memery@lcsc.edu>  
To: dtvallotments@fcc.gov  
cc: benton@benton.org  
Subject: mass media docket 87-268  
MIME-Version: 1.0  
Sender: memery@lcsc.edu

Dear folks:

I support the benton foundation's proposal to define broadcasters' public interest obligations in the digital age before digital licenses are issued. This issue will have great impact on educational access and use of telecommunications. I am particularly concerned about affordable universal access.

mary emery  
lewis-clark state college  
lewiston, ID 83501  
208/799-2460



From: farley@infobahn.icubed.com  
Date: Tue, 3 Dec 1996 19:16:36 -0500  
X-Sender: farley@infobahn.icubed.com (Unverified)  
Mime-Version: 1.0  
To: dtvallotments@fcc.gov  
Subject: digital TV  
Cc: benton@benton.org

These comments pertain to FCC Mass Media Docket No. 87-268.

We strongly support the position taken by the Benton Foundation and others that broadcasters' public interest obligations should be defined before they receive their digital licenses. In Pittsburgh and other metropolitan areas efforts are underway, now, to define more precisely the parameters of public-private partnerships between municipalities and technology businesses (including businesses that are built on the extensive use of technology.) In our particular case we are seeking to pair our own, limited, local leverage with respect to rights of way, and so forth with the desire of technology vendors, cable television companies, broadcasters, ISP's, and others for access to public markets and various franchise options.

We have been hard at work with local foundation partners building community computer networks and Internet connectivity projects in the Pittsburgh area. Sustaining those efforts through on-going training of citizens and technical support for a limited number of neighborhood-sited hubs, e.g., is a challenge with which we are dealing, now. FCC should help to promote the proliferation and continued technical sustainability of these types of local, community efforts by making it clear through the rule-making process that broadcasters (and for that matter any other purveyors or exploiters of technology that fall under its jurisdiction) are expected to adhere to certain federal standards with respect to public interest obligations. Furthermore, we believe that FCC should include specific reference in its rule-making to local, municipal efforts, such as the one in the Pittsburgh area. That could be accomplished, we suggest, by requiring evidence to be submitted by broadcasters that they have entered into local agreements prior to the granting by FCC of digital licenses.

We recognize it may be easier for some to grasp such a requirement in the case of the use by a private company of actual municipal rights of way or local infrastructure. We believe, however, that the use of the airways by a broadcaster under a federal license (for which they're not really paying anything) should also carry a tangible obligation consistent with federal intent and local technology efforts.

Thank you for the opportunity to comment. Please let us know, if there is additional information we can provide.

Sincerely,

Dave Farley  
Grants and Development Officer  
Office of the Mayor  
City of Pittsburgh, Pennsylvania  
536B City County Building  
Pittsburgh, PA 15219  
PHONE: (412) 255-4765  
FAX: (412) 255-2687  
EMAIL:

<farley@infobahn.icubed.com>

Date: Tue, 03 Dec 1996 09:42:49 -0700  
From: "Joseph D. Straubhaar" <JDSTRAUB@BYUGATE.byu.edu>  
Subject: Digital TV Standards -Reply  
To: dtvallotments@fcc.gov  
MIME-version: 1.0

Dear FCC,

I wish to comment on Mass Media Docket No.  
87-268.

I urge you to not give digital spectrum away free to broadcasters. Broadcasters have already benefited sufficiently in the past and currently from this public resource that they ought to pay for access to it. If this is a year to cut back on corporate welfare, this is a very good place to start. I would most support auctioning off the spectrum, but if it is to be allocated then a fair price for access should be set--perhaps with proceeds helping to pay for the subsidy required in the new universal service proposals for schools and libraries.

For whoever receives the spectrum allocation, I also urge you to define broadcasters' public interest obligations before they receive their digital licenses. I would urge standards that require more children's programming and more news programming. Perhaps a more rigorous sort of trial allocation could be given, conditional on broadcasters meeting such standards in good faith.

Thank you,

Joseph Straubhaar  
Professor of Communications  
Brigham Young University

Date: Tue, 3 Dec 1996 14:52:37 -0500 (EST)  
From: General WWW Account <www@periplum.cdinet.com>  
Reply-to: clohr@loop.com (charles m. lohr)  
Subject: Docket 87-268 Comments  
Apparently-To: <benton@benton.org>

clohr@loop.com (charles m. lohr) sent the following:

-----  
I am writing to express my support for defining  
broadcasters' public interest obligations before being  
granted digital television licenses.

I support the Benton initiative to define broadcasters'  
public interest obligations in the digital age.

-----  
world television

Server protocol: HTTP/1.0  
Remote host: charles.loop.com  
Remote IP address: 206.138.119.22

From: CommProf@aol.com  
Date: Wed, 4 Dec 1996 13:20:53 -0500  
To: dtvallotments@fcc.gov  
cc: benton@benton.org  
Subject: MassMedia Docket No.87-268.

I wish to join wih others in urging the Commission to demand that the Public Interest obligations of spectrum users be spelled out with enforcement provisions before any allottment of digital frequencies be made.

John M. Phelan  
Professor and Director  
McGannon Communication Research Center  
Fordham University  
New York, NY 10458

Date: Wed, 4 Dec 1996 14:29:02 -0500 (EST)  
From: General WWW Account <www@periplum.cdinet.com>  
Reply-to: drhenley@aol.com (Dr. Jim Henley)  
Subject: Docket 87-268 Comments  
Apparently-To: <benton@benton.org>

drhenley@aol.com (Dr. Jim Henley) sent the following:

-----  
I am writing to express my support for defining  
broadcasters' public interest obligations before being  
granted digital television licenses.

I support the Benton initiative to define broadcasters'  
public interest obligations in the digital age.

-----  
ZooNet

Server protocol: HTTP/1.0  
Remote host: Synthftp.Tusk.Edu  
Remote IP address: 192.203.127.84

From: "Henry, Dane" <DHenry@LRS.com>  
To: "'dtvallotments@fcc.gov'" <dtvallotments@fcc.gov>  
Cc: "'benton@benton.org'" <benton@benton.org>  
Subject: Mass Media Docket No.87-268  
Date: Wed, 4 Dec 1996 10:30:07 -0600  
MIME-Version: 1.0

Gentlemen:

My family and I urgently request your support in requiring broadcasters to specifically define their public interest obligations, in public, before they can be considered to receive their digital broadcast licenses. Let us not repeat the major mistakes of the past.

Thank you,

Dane K. Henry  
2145 E. Dickinson Ave.  
Decatur, Illinois 62521

Date: Wed, 04 Dec 1996 09:42:23 -0800  
From: Share Reeves <sharing7@earthlink.net>  
Reply-To: sharing7@earthlink.net  
Organization: ShareWerks <http://home.earthlink.net/~sharing7>  
MIME-Version: 1.0  
To: benton@benton.org  
Subject: Copy: Mass Media Docket No.87-268

Hello,

Mass Media Docket No.87-268

I support the Benton initiative to define public interest obligations in the digital age.

I feel that broadcasters' need to fulfill public interest obligations before they receive their digital licenses.

I design educational Internet Sites and I have witnessed the learning and enthusiasm that digital media brings to youth. This is an opportunity to create a new model for content broadcast into the American home.

Best regards,  
Share Reeves

From: "Francis X. Sheehan" <sheehan@rangeley.org>  
To: <dtvallotments@fcc.gov>  
Cc: "Benton Foundation" <benton@benton.org>  
Subject: consumer rights  
Date: Wed, 4 Dec 1996 16:54:17 -0500  
X-MSMail-Priority: Normal  
X-Priority: 3  
MIME-Version: 1.0

I am commenting on Mass Media Docket No.87-268. Let the FCC know my support defining broadcasters' public interest obligations before they receive their digital licenses

Francis X. Sheehan  
Rangeley Region Information Coalition  
(207) 864-5802

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<html><head></head><BODY bgcolor="#FFFFFF"><p><font size=2 color="#000000"
face="Arial">I am commenting on Mass Media Docket No.87-268. Let the FCC know my
support defining broadcasters' public interest obligations before they receive their
digital licenses<br>Francis X. Sheehan<br>Rangeley Region Information
Coalition<br>(207) 864-5802</p>
</font></body></html>
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