

terms of spectrum assignment to a policy of having the Commission set the assignments. While this task presented enormous technical complexities, at the urging of broadcasters we undertook this challenge and the result will be much greater certainty as to the build-out. We went from an inefficient policy to the most spectrum-efficient policy for television. We went from a policy that created greater interference for existing analog television sets to a policy that reduced such interference.

We also went from doing essentially nothing for low power television and translators to adopting a number of creative measures to minimize the impact of digital television on those services. Now that the DTV allotment table is done, it is time for the Commission to explore ways to find a permanent home for the low power service.

The many benefits associated with the DTV allotment plan that the Commission adopts today are the direct result of the hard work, rigorous analysis and extraordinary commitment of several of the Commission's brilliant engineers and economists, including Bruce Franca, Alan Stillwell, Robert Eckert, and Robert Bromery, who for the last two years have been supervised and fully supported by Office of Engineering and Technology Chief Richard Smith. I am proud to have worked with these dedicated public servants.

The Build-out of DTV

The Commission previously would have given all broadcasters a full six years to begin digital TV transmissions. Six years would have stretched out the introduction of DTV far too long, making for a fitful, lackluster launch of this new medium instead of the impressive entry our rules provide. The cost could well have been the death of free TV, as broadcasters' pay competitors -- cable, DBS, wireless cable and others -- move earlier to digital and lock in subscribers.

Today the Commission adopts rules that guarantee there will be three or four network-affiliated digital signals in the top ten markets by April 1, 1999, roughly 24 months from now, and three or four network-affiliated signals in the top 30 markets by November 1, 1999, roughly 30 months from now. The focus on multiple TV signals in each market is critical, since -- as our experience with color TV proves -- consumers won't buy TV sets for a single improved signal. And the 30-month milestone is significant because it means that there will be multiple digital television signals in the top 30 markets -- representing 53% of the country -- by November 1, 1999, in time for the holiday shopping season that year. More than 40% of television sets are sold in the last quarter of each year.

In addition, a number of television stations in the top ten markets have committed to building their digital facilities in 18 months -- that is, by November 1, 1998 -- in time for the 1998 holiday shopping season. NBC in particular is to be praised for its commitments; it has pledged that 80% of its owned and operated stations in the top ten markets will be up and running with digital TV in 18 months. The other major networks deserve commendation in accordance with their commitments: ABC has pledged to build 60% of its O&Os in the top

ten markets in 18 months; CBS has pledged 57%; and Fox has pledged 33%. Other broadcast groups, such as Gannett, have similarly made important commitments. And the NAB and MSTV have said that they will continue to encourage broadcasters to begin digital television in time for the 1998 holiday shopping season. The broadcast community has come a long way since as recently as last month, when they questioned whether a significant build-out by the fourth quarter of 1998 was possible and advocated that the Commission adopt a 6-year build out rule. I very much appreciate the progress and the hard work it will take in many cases to meet these commitments.

I would have preferred to adopt an 18-month rule to guarantee that we have three or four network-affiliated stations in the top ten markets by the 1998 holiday shopping season. It is beyond dispute that an 18-month build-out is reasonable. A rule applying to all network-affiliated stations would have been more fair than an approach that, in effect, rewards stations that did not make 18-month commitments. And it would have given manufacturers the certainty they need to build digital TV sets in massive amounts for the 1998 holiday shopping season. The Consumer Electronics Manufacturers Association specifically urged us to require that multiple digital signals be available in the top ten markets in 18 months. I am concerned that failure to adopt an 18-month rule will delay a major launch of digital television by one year, to the 1999 holiday shopping season, and that such a delay needlessly places the success of digital TV -- especially free digital TV -- at risk. I hope to be proven wrong.

I am also concerned by the Commission's decision not to adopt a phased-in build-out rule for markets 30-211. The failure to do so means that over 90% of television stations have no requirement to build out before five years. This puts our spectrum recovery goals unnecessarily at risk. I believe there is a good chance that market forces generated by a rapid build-out in the top 30 markets will cause the remaining markets to build out relatively quickly. But I would have preferred not to leave this to chance, no matter how good. I hope the Commission will revisit this decision as early as next year.

Nonetheless, the build-out plan adopted today is an extraordinary improvement over the plan proposed earlier.

Public Interest Programming

Broadcasters who receive this boon of licenses for the public spectrum must also accept the responsibilities that accompany such licenses.

The Commission does not yet adopt specific new public interest rules for broadcasters in the digital world. Instead, we will allow the Administration, Congress and the public to advise us on the appropriate nature and scope of specific public interest obligations in the future. The Report and Order that we adopt today makes it crystal clear, however, that in deferring decision on public interest rules, the Commission forecloses nothing from its consideration or adoption. The Commission specifically places broadcasters on notice that it may adopt new public interest obligations. As the decision today states, the Commission will

issue a Notice on the public interest to gather all ideas and views. This will give the public a real chance to ensure that the Commission adopts appropriate public interest obligations for broadcasters in the digital age.

What might those obligations look like? First, as the Vice President stated in announcing a Presidential Advisory Committee on the public interest, the obligations should be clear. Especially in a dynamic and flexible digital environment, broadcasters need to know exactly what is expected of them; the public has a right to know the same thing; and so does the Commission if the obligations are to be enforced. Second, as the Vice President also said, the obligations should be commensurate with the opportunities provided by the new digital channel being given to existing broadcasters. The obligations should give the public a fair deal for free use of its spectrum, and they should take fair account of the effective increase in capacity that digital technology allows -- the fact that a digital broadcaster can air multiple channels require over the same amount of spectrum that allows an analog broadcaster to air just one.

One possibility is for the Commission to require that five percent of capacity be devoted to public interest purposes -- desirable programming or services that the market on its own won't adequately generate. There is ample precedent for this. DBS providers must set aside 4-7% of their capacity for educational programming. And cable operators must set aside specific percentages of their channels for must carry, leased access and PEG.

Another compatible possibility is to adopt a rule requiring broadcasters to set aside a specific and ample amount of time for candidates to speak directly to voters. This could be combined with legislative action setting limits on campaign spending -- the approach set out in the legislation introduced by Senators McCain and Feingold. Setting aside TV time for candidates would directly fulfill one of the basic tenets of national communications policy -- "promoting the widespread dissemination of information from a multiplicity of sources." Turner Broadcasting System, Inc. v. F.C.C., 117 S.Ct. 1174, 1186 (1997). As Justice Breyer pointed out in making the fifth vote for the Supreme Court's decision upholding must carry, "That policy . . . seeks to facilitate the public discussion and informed deliberation, which, as Justice Brandeis pointed out many years ago, democratic government presupposes and the First Amendment seeks to achieve." Id. at 1204 (Breyer, J., concurring). At the same time, stump time for candidates would remedy a problem that has steadily worsened over the last two decades: the fundraising that office holders must pursue in order to afford the TV time necessary to reach voters. A better system would let candidates at election time use the public spectrum for free, and surely it is not unreasonable for broadcasters to offer this service in return for all they have been given.

Justice Breyer's important opinion observed that must carry "extracts a serious First Amendment price," a price that "amounts to a suppression of speech." Id. at *26 (Breyer, J., concurring) Justice Breyer concludes that it is a price worth paying, however, because of the First Amendment interests that must carry promotes: ensuring the "quality and quantity of programming choice" for non-cable subscribers, thereby facilitating public discussion and

informed deliberation. *Id.* (Breyer, J., concurring)

Just as it furthers First Amendment principles to require cable operators to carry broadcast channels, it would further First Amendment principles to require broadcasters to carry the messages of political candidates without payments.

The same is true of rules requiring broadcasters to provide programming that educates children. The purpose of these rules is to help ensure that children in our society grow into citizens who can not only fully participate in our economy, but who can fully participate in the public discussion and informed deliberation that democratic government presupposes.

Digital technology provides many new and creative opportunities for broadcasters to serve the country and the public interest. Access for candidates and children's educational TV are only two possibilities. The Presidential Advisory Committee will grapple with this and, I expect, generate exciting new ideas. And the Commission will return to explore in greater depth the question of how broadcasters should satisfy their public interest obligations in the digital age.

The decisions in the second of the two Reports and Orders we adopt today -- the service rules item -- and the substantial improvement over what previously had been contemplated, are the result of the hard work of many dedicated public servants. And for that the public should thank Saul Shapiro, Mania Baghdadi, Gretchen Rubin and Dan Bring, as well as their supervisors Roy Stewart, Renee Licht and Doug Webbink and many others in the Mass Media Bureau. For long days over many months they have devoted all their energy and their impressive talents toward one overarching goal: implementing Congress's decision on the award of digital licenses in a way that will serve the public interest in every respect. They have succeeded.

The Future

Broadcast television is our only free, universally available communications medium. It uses the public property of the airwaves and so is appropriately required to provide all Americans with programming that serves the public interest. And as the Supreme Court pointed out just this week, "though it is but one of many means for communication, by tradition and use for decades now it has been an essential part of the national discourse on subjects across the whole broad spectrum of speech, thought, and expression." *Id.* at 1188.

Those are the reasons that Congress enacted and the Supreme Court upheld the must-carry law.

Congress has decided that we should help broadcasters retain this position in the digital age by giving each existing broadcaster a second 6 MHz band of spectrum. Whether this was the best way to launch digital television has been legitimately questioned by many. Nevertheless, the role of the FCC is clear: our threefold task is to implement Congress's

decision in a way best designed to promote the success of free, over-the-air digital television in a competitive marketplace, to recover spectrum as quickly as possible, and to ensure that broadcasters serve the public interest.

The decisions we have made in no way guarantee the success of digital television. Our job at the Commission is to give DTV a fighting chance. DTV broadcasters face many challenges. Other media such as DBS, cable, wireless cable, and telcos have or soon will offer all the advantages of digital technology. Unless DTV is available soon, and unless it is available in a way that will attract consumers, it may never be able to catch up to the head-start of its competitors. That is why rapid construction requirements are so important. Unless DTV hits the air running, it will be left in the dust of its competitors. At stake is the viability of our free, over-the-air television system.

Already DTV faces a challenging landscape in which 65% of households receive broadcast television through cable wires. Will broadcasters seek to wean these households from cable so that they can receive the digital signal off the air? If so, how? Will they offer multichannel packages that will compete directly with cable? Or perhaps broadcasters assume that most Americans will continue to receive broadcast programming through cable wires (or through DBS, if it begins retransmitting local signals). But then why purchase a digital TV set designed for over-the-air delivery? And what about the relationship between networks and affiliates in the digital world? What role will the networks' increasing investment in cable play? Will broadcasters offer programming that attracts viewers to Digital Television? These are only some of the difficult questions broadcasters will have to answer, and quickly.

Last October I gave a speech to broadcasters which I concluded by saying, "we are getting very close to working out all the issues and reaching resolution to all the complex DTV questions. But in the end, the success of digital TV will not be determined by the FCC; it will be determined by alliances that may not now exist -- alliances between, among others, broadcasters, TV manufacturers, the hardware and software arms of the computer industry, the creative community, and newspapers and by content creators that don't now use spectrum for transmission. It will be driven by market forces not regulatory demands. I'm certain that in just a few months, the policy debates will be behind us, and the digital future will be here."

Thanks to the Commission's actions today, the future is now. And the future of digital television, while not guaranteed, is much brighter for the changes we have made.

SEPARATE STATEMENT OF COMMISSIONER JAMES H. QUELLO

Re: Action Concerning the Service Rules for Digital Television Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service (MM Docket No. 87-268, Fifth Report and Order)

By adoption of this order the Commission hopes to provide a smooth transition to digital television broadcasting. Although we have attempted to refrain from regulation as much as possible, we have adopted rules where such rules are appropriate. Our overriding goal is to preserve free over-the-air broadcasting that continues to serve the public interest.

It is clear from the broadcasters' overwhelming response to our concerns over the build-out schedule for DTV that broadcasters are, in fact, anxious and primed for DTV conversion. No industry has worked harder, and I applaud them for their efforts. Although we do adopt a rule that implements a build-out schedule, I personally do not believe that such a move is necessary to ensure that broadcasters play their part in making DTV a success. To premise rules on a fictional intent on the part of broadcasters to delay the implementation of DTV defies reason. However, I do believe that the build-out rules that we adopt will only coincide with what the marketplace, and broadcasters themselves, would achieve on their own. In addition, we have adopted criteria for extensions of time of these scheduled periods that should accommodate broadcasters who run into either unforeseeable circumstances or valid circumstances beyond their control that would warrant additional time.

In our decision, we implement Congress' intent that broadcasters continue to provide free over-the-air service, but retain the flexibility to respond to the demands of their audience by providing supplementary services that do not derogate the free service. In this regard, we decline to mandate that broadcasters provide an HDTV signal comprised of all 6 MHz. It is optional whether to broadcast HDTV signals or standard definition signals.

Notably, we do not address what impact, if any, conversion to DTV may have on current public interest obligations. Broadcasters are always obligated to serve the public interest, and, a great majority meet that obligation admirably. I am well aware of the industry initiatives, expense and diligence that went into developing DTV. It is incongruous to "reward" broadcasters by imposing additional, quantifiable public interest obligations for their developing an advanced technology that

provides superior video and audio TV services for the public, and I would oppose any such initiatives. We do not, however, reach these issues today.

By our order, we initiate a two-year review process that will permit us to monitor closely any problems associated with digital conversion. I believe firmly that the marketplace, not government, must resolve the majority of issues remaining. However, to the extent this Commission can facilitate the process, we may still yet have a role to play.

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**Separate Statement
of
Commissioner Susan Ness**

Re: *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268.*

Our decisions today ensure a bright future for free, over-the-air broadcasting, and thereby secure its continuing vitality as the principal source of news, information, and entertainment in homes throughout our nation.

The two orders adopted today, along with the standards decision issued last December, conclude a lengthy deliberative process. The momentous result of an extraordinary industry-government partnership, our new rules will facilitate an expeditious and successful launch of digital broadcasting, delivering abundant benefits to the American consumer. The landscape of television will be forever changed.

Throughout our deliberations, my primary concern has been to protect the interests of the American consumer. Our decisions today accomplish that goal.

Highlights of our actions include an aggressive but achievable deployment schedule that will accelerate the availability of digital broadcast signals in major markets, stimulate demand for new television and computer products, and permit the recovery and auctioning of spectrum currently allocated to the broadcast service. Service rules will enable broadcasters to experiment with high-definition television, multi-channel standard definition programming, and ancillary services such as paging and data delivery. Broadcasters need not delay while their public interest compact is renewed and clarified, but there is clear notice that we will maintain the fundamental precept that broadcasters have a special obligation to operate in the public interest.

I am particularly pleased that fully half of all Americans should be able to receive three or more digital broadcast signals within 30 months. I also welcome the opportunity to provide new spectrum for public safety uses – and later to reclaim other channels that will permit the delivery of new services to the public, and auction revenues to the Treasury.

Service rules

Deployment schedule: Our decision on the service rules gives broadcasters a green light to move rapidly to convert from analog to digital. Each broadcaster shortly will receive authorization for the transition channel identified for its use.

The transition from analog to digital broadcasting presents difficult practical challenges. One difficulty is the "chicken-and-egg" relationship between transmission and reception. Broadcasters are not eager to invest significant sums to broadcast a signal that no one can receive. Manufacturers are reluctant to build -- and consumers will be reluctant to buy -- receivers for which there is no programming. The only solution is for both industries to move forward in tandem, sharing the commitment and the risk.

I believe we have addressed this issue in a way that maximizes the opportunities for a rapid and successful launch of digital broadcasting. A substantial number of the largest broadcasters in the top ten markets voluntarily have committed to commencing digital broadcasting within 18 months. This will be in time for the 1998 Christmas holiday shopping season, when digital receivers should be widely available to consumers.

A rapid and progressive transition to digital will be further promoted by the mandatory conversion schedule we are adopting. The top four network-owned and operated stations and network affiliates in the largest 10 markets must convert within two years; in the top 30 markets, the conversion must occur within 30 months. All commercial stations will be required to be on air in five years, and public stations in six.

Of course, our schedule recognizes the possibility of extenuating circumstances that are outside the broadcasters' control, such as inability to secure tower locations for new antennas. But the commitment to move rapidly must -- and will -- be there.

In short, the deployment schedule is rapid, rigorous, and yet reasonable. It is practical and achievable. It enjoys the strong support of the broadcasters and receiver manufacturers upon whom we depend to roll out service to the public.

Further, this schedule is consistent with our target of 2006 as the date on which the analog signals will cease. This is essential so the "loan" of the channels can be ended and the analog channels recaptured and readied for auction. Then, the American public will receive the benefits of both the auction revenues and of the new services that the auction winners will offer.

Service flexibility: Consistent with the Telecommunications Act of 1996, we have provided broadcasters with the flexibility to experiment with the types of services to be offered under the digital transmission standard adopted last December. Based on my conversations with broadcasters and others, I fully expect to see a wide variety of new services, including data and Internet access, computer software transmission, electronic newspapers and magazines, and a host of other services. Our computer-friendly approach leaves it to the marketplace to determine the kinds of devices American consumers will choose to receive the digital signals that will be broadcast.

Yet, even as we allow for new ancillary services, we must not forget the reason for which broadcasters were accorded the spectrum to effectuate a full conversion to digital: to

preserve and enhance free-over-the-air broadcast service. Broadcasting plays a unique role in American society, and the American public rightfully expects that broadcasters will use these channels to continue to deliver news, information, sports, and educational programming for children, among other things. Our rules will ensure that this service continues.

Simulcasting: During the transition period, broadcasters will have temporary use of an additional six megahertz channel to deliver digital programming and other new services to the public. I emphasize the word "temporary." We will reclaim the temporary channel when consumers have converted to digital receivers.

My desire is to expedite market penetration of the new digital sets, yet ensure that we obtain return of the temporary channels. Consequently, we have agreed not to impose a simulcasting requirement during the early years of the transition, when new programming and features need to be maximized to encourage sales. Once substantial market penetration is achieved, continuing separate programming on the analog and digital channels likely would impede the orderly return of the spectrum. Hence, we adopted simulcast requirements in the later years of the transition to ensure that consumers will not be inconvenienced in the period before the analog signal is turned off.

HDTV: High-definition television -- with crisp pictures, true color, multi-channel compact-disc-quality sound, and a wide aspect ratio -- has the potential to provide a theatrical viewing experience. We permit, but do not require, the use of digital channels to offer HDTV.

The FCC standard is on its way to global acceptance as state of the art. Consumers increasingly desire "home theater" facilities. While the price of wall-sized flat screens is prohibitively high today for most consumers, as technology advances the cost of such equipment is bound to decline. High definition pictures, especially for movies and sporting events, may be a major consumer draw.

While we do not require broadcasting in high definition, we carefully avoid any policies that would inhibit its emergence. The consumer marketplace -- not the government -- should determine the success or failure of HDTV.

Public Interest: In a future Notice, we will proceed to explore and better define the public interest obligations of broadcasters in the digital world. As we formulate that policy, I personally look forward to insights from the advisory committee that is being established by President Clinton and Vice President Gore, as well as from Congress and the public.

Allotment Schedule

The allotment schedule we adopt today is a masterpiece of engineering. Many said it couldn't be done, but this plan accommodates all existing broadcast stations during the transition in a manner that avoids loss of free, over-the-air broadcast service to consumers.

Signal Disparity: The Table provides existing high-powered stations with digital coverage areas that essentially replicate their analog service area contours. We also set a floor power level for existing UHF stations, and a ceiling of one megawatt for existing VHF stations moving to UHF, to mitigate the power differential between these types of stations within their primary service areas. This is necessary to ensure that the signals from all size stations will sufficiently penetrate buildings within their primary markets.

Channels 60-69: We have limited the number of analog and digital stations that will broadcast on channels 60-69. Subject to the existing broadcast operations, this will facilitate expeditious reallocation of this spectrum for other purposes.

In particular, I favor a plan to allocate four of the channels -- 24 MHz -- for public safety. The need for additional spectrum, and the suitability of this specific spectrum for public safety uses, was demonstrated in the report of the FCC and NTIA's Public Safety Wireless Advisory Committee. We will address this shortly in a new proceeding.

I am concerned that public safety entities such as firefighters, police, and rescue workers not be hampered by having insufficient spectrum. Public safety entities often cannot communicate with each other in an emergency, such as a bombing or plane crash. It is inexcusable that today these life-saving agencies cannot talk to each other without multiple radios operating across scattered spectrum bands. In the middle of a disaster rescue operation, our public safety teams should not have to worry about having the right radio equipment in hand. We have set in motion a process that will free up enough contiguous, versatile spectrum to facilitate those vital communications.

I look forward to expeditiously allocating the remaining space between channels 60 and 69 to new uses. I consider these 60 megahertz a "downpayment" on our commitment to the American public for the return, repacking, and auctioning of the remaining spectrum that will be reclaimed. After conversion from analog to digital is completed, the total spectrum reserved for broadcasting will shrink by over one-third, and that which is recovered will be put to other valuable uses.

Low Power Television: We have done everything possible at this time to enable the maximum number of low power stations to continue operating and providing desired services to consumers.

We also are looking for any additional methods which we could employ to enable even more low power stations to continue broadcasting, both during the transition and afterward. I expect that the adoption and release of our specific allotment table will enable engineers to go to work -- as I know the Community Broadcasters Association has suggested -- and find channels where existing low power stations can be accommodated.

Low power offers a valuable service -- providing communities with news and information tailored to their needs. I want to enable as many LPTV stations as possible to prosper in the

digital age. Perhaps one method -- where everything else fails -- would be to assemble stations on a multiplexed digital six-megahertz channel. Another "last-ditch" method might be for contractual arrangements with full-powered stations to carry the LPTV signal on one programming stream.

Such results clearly would promote the public interest in making more and diverse programming available to consumers.

The items adopted today are not the final word on LPTV. We remain committed to doing our best to preserve these additional voices in the broadcast marketplace.

Conclusion

I am proud of the way in which my colleagues, our staff, and interested parties have worked together on these orders. I truly believe that the net result will serve the interests of American consumers.

The conclusion of these phases of the governmental process sets the stage for an intense period of rapid progress in the marketplace. Other issues will require our attention, but with these decisions broadcasters and receiver manufacturers now have a clear path to the digital future. I urge them to proceed with the same vigor and commitment they have so ably demonstrated in recent weeks.

**Separate Statement of
Commissioner Rachelle B. Chong
Concurring in Part**

Re: *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Fifth Report and Order (MM Docket No. 87-268)*

Today, we complete the Digital TV trilogy of decisions. With the issuance of this decision, its companion DTV Allotment decision, and the DTV Standards decision we adopted last December, the industry finally will have the regulatory certainty and confidence to move ahead to bring state-of-the-art digital television to American households.

The DTV service rules we adopt today are intended to achieve our overarching goal of preserving the free-over-the-air television service Americans rely upon. Clearly, television is an important and unique part of our culture that gives us shared national experiences. Moreover, television broadcasters play an important role in our democratic society by helping safeguard freedom of speech and press. They bring us entertainment, news, election information, educational fare, children's programming, and other public service information.

I respectfully disagree with those that argue that this is a "free giveaway" of spectrum to broadcasters. This is a technology transition. Congress and the Commission have agreed that a temporary loan of a second channel is warranted to smooth the transition from analog technology to digital technology for consumers.

This transition will inure to the benefit of the American people. Digital television will offer viewers sharper, brighter and bigger pictures through high definition TV, wide screen televisions, CD quality sound, more channel options, and innovative services like being able to choose a different camera angle while watching a live sporting event or obtaining player statistics as you watch a baseball game. Further, DTV is a more spectrum efficient system that will permit greater versatility for broadcasters. For example, it can enable broadcasters to offer ancillary and supplementary services along with free-over-the-air broadcast service. Americans deserve to receive the benefits of improvements in television technology, and that is the driving force behind this proceeding. What we are doing today is completing the path that gets us from here to there.

Expeditious and Orderly Transition to Digital TV

It is my belief that as audiences begin to see and experience for themselves the improved DTV service, they will begin buying up digital TVs, just as they embraced other innovations in technology, such as color TVs, VCRs and CD players. In nine years, if most of the audience has switched to digital TVs -- and I believe they will -- the analog television service will be completely turned off. The FCC will then be able to take back the second 6 MHz channel that had been loaned the broadcasters, leaving them with with a single 6 MHz channel. I think this is a sensible transition plan that minimizes consumer upset during the transition period. The alternative is a flash cut transition, which I think is simply unrealistic.

In today's decision, we have shortened the transition period to nine years. I support this shortened transition period because I think the government ought to recover the excess spectrum at the end of the transition period as quickly as possible. I have insisted, however, that we monitor the penetration of DTV sets in American households to ensure that at the end of the transition period, nearly all American households indeed have either made the switch to DTV or have a converter device that will allow their analog TV sets to receive digital TV signals. It is critical that consumer acceptance remains the driving force of this transition.

Construction Requirements

One way to speed consumer acceptance is to encourage the rapid roll-out of digital television by broadcasters. I think a rapid transition is a very important goal for spectrum efficiency reasons. Having said that, we do not have to adopt a "command and control" approach to construction requirements to accomplish a rapid roll-out. I strenuously object to micromanagement of the broadcasters' construction schedules as to their DTV facilities. Mandating unrealistic construction schedules would be arbitrary and overregulatory.¹ Converting to digital television is a costly and complicated undertaking for broadcasters. While I too would like to drive this transition swiftly, we must stay within the realm of reason.

In this order, we have compromised on a more realistic construction schedule for the new DTV facilities. I reluctantly concur in this portion of the decision. We have acknowledged that some broadcasters may run into real life difficulties such as tower siting, zoning issues, obtaining necessary digital equipment from manufacturers, and the like. We have delegated to the Mass Media Bureau the ability to extend the construction schedule for good cause. I fully expect the staff to use their good judgment in applying this waiver

¹ While we do mandate construction periods in other contexts for licensees, such as wireless providers, we generally give them more liberal construction periods ranging from five to ten years. We also do not differentiate between them based on market size or by assumptions regarding financial status or incentives to move ahead with construction.

authority, especially where the broadcaster has made diligent, good faith efforts.

I also acknowledge that we have received voluntary commitments from a number of the largest broadcasters to have their digital service operating within certain expedited time frames. I commend the broadcasters for their commitments, and hope it will help drive a speedy transition.

Small and Noncommercial Stations

Our decision today also acknowledges the problems that smaller and noncommercial stations may face in making this expensive transition. I am pleased that we have granted them more time to begin operating on the DTV channel. I particularly note that noncommercial stations face special budgetary challenges entering the digital age. Because of the long tradition of public service and commitment to quality broadcasting of noncommercial stations, the FCC has acknowledged in this decision that PTV stations may need and warrant special relief measures to help these stations make the leap into the digital age.

Public Interest

Finally, as to the public interest requirement that will apply in the digital era, this decision leaves no doubt that public interest obligations attach to broadcasting on these digital channels. And so it should be. This is a change from analog to digital technology for existing broadcasters. By statute, Congress has imposed on broadcasters an obligation to serve the public interest. The technological means they use to deliver the signal should not alter this. Thus, it is not surprising that in the Telecommunications Act of 1996, when Congress addressed a number of issues related to digital broadcasting, it did not change this historic public interest standard that has served us well for the past sixty plus years.

In our record, some argued that we ought to more clearly define and quantify a broadcaster's public interest obligation. Others contended that our current rules need not change simply because broadcasters will be using digital technology to provide the same broadcast service to the public. Our decision today states that we shall not resolve this debate today. I think putting off this issue is the right choice because it is premature to make this decision. We simply do not know how broadcasters will choose to use the new technology as they begin broadcasting on the DTV channels.

I want to be very clear that my vote today in no way endorses the concept of increasing or in any way quantifying public service obligations simply because broadcasters are transitioning to a new technology. At this time, the FCC should allow broadcasters to make the most of this technology and afford them great latitude to experiment and try innovative programming techniques using the new DTV channels. We should not attempt to use this technology shift as an excuse to intrude upon broadcaster programming decisions.