AMERICA'S PUBLIC TELEVISION STATIONS

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Re: MM Docket No. 93-25 *Ex Parte* Notice
MM Docket No. 87-268 *Ex Parte* Notice

Dear Mr. Caton:

The Association of America's Public Television Stations ("APTS") hereby notifies the Commission of the following ex parte meetings in the above referenced Direct Broadcast Satellite and the Digital Television proceedings.

The meetings occurred on November 20, 1997, and were attended by David Brugger, President, APTS, Marilyn Mohrman-Gillis, Vice President, Policy and Legal Affairs, APTS, and Lonna Thompson, Director, Legal Affairs, APTS.

We met with the following Commissioners and their staff members:

Commissioner Gloria Tristani
Rich Chessen, Senior Legal Advisor to Commissioner Tristani

Commissioner Michael Powell
Jane Mago, Senior Legal Advisor to Commissioner Powell
Paul Jackson, Special Assistant to Commissioner Powell

The meetings addressed the proposed direct broadcast satellite rules and the proposed digital television rules.

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Should any questions arise concerning these meetings, please contact the undersigned.

Respectfully submitted,

David J. Brugger
President
Marilyn Mohrman-Gillis
Vice President, Policy and Legal Affairs
Lonna M. Thompson
Director, Legal Affairs
Association of America's Public Television Stations
1350 Connecticut Ave., N.W. - Suite 200
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cc: Commissioner Gloria Tristani
Commissioner Michael Powell

AMERICAN PUBLIC TELEVISION STATIONS

DIGITAL TELEVISION
THE OPPORTUNITIES AND CHALLENGES FOR PUBLIC TELEVISION

The FCC has entrusted each public television station with a digital broadcast channel to use for the public interest. Digital technology is not a frill, but a technological imperative. While the costs for public broadcasters to convert to digital are great, the opportunities to expand public service programming are equally great.

This digital channel has enormous capacity and flexibility. It will allow us to transmit full high definition (HDTV), multiplexed standard definition (SDTV), and audio, video, data and text.

WHAT DOES HDTV MEAN FOR PUBLIC TELEVISION?

HDTV is tailor-made for public television because it will significantly enhance the beauty and detail of its signature programs—performing arts, drama, history, science, nature, travel and exploration.

WHAT DOES SDTV OR MULTICASTING MEAN FOR PUBLIC TELEVISION?

It will allow us to broadcast four or more program streams on the same channel simultaneously. This is called multicasting.

Multicasting will release the full potential of public television's public service mission by providing MORE educational services to MORE audiences at the same time.

Many educational services are available right now on public television stations nationwide. But stations must choose what service to offer and what audience to serve. Multicasting will allow stations to deliver a menu of services—K through 12 instructional, local civic affairs, how-to and children's programming—to diverse audiences at the same time.

Multicasting means that a busy, single working mother can earn her college degree with greater ease through the PBS Adult Learning Service and her local educational institution.

It means that before his bedtime, a five-year-old child can tune to *Sesame Street* on the PBS Ready to Learn channel and learn his numbers — in the company of his parents.

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WHAT DOES DATA TRANSMISSION MEAN FOR PUBLIC TELEVISION?

It provides public television with a powerful tool to fulfill and expand its educational mission. The following potential applications for data transmission just touch the tip of the iceberg; most have not even been conceived of yet.

- Program-related information-background research, video footage, audio-can be imbedded in the program itself and can be accessed by all who can receive the digital signal.

- Public television stations could deliver course material, textbooks, teacher and student guides and teacher training material along with their instructional programming, which teachers and students could retrieve on demand.

- Public television could position itself as the educational gateway to the Internet and the World Wide Web and provide content, now available only through Internet access providers, free and over-the-air on a universal service basis.

Digital television also offers public broadcasters vast new opportunities to generate revenue to support our primary public service mission.

CHALLENGES

But the challenges that face public television to realize these opportunities for the American public are daunting. Current estimates put the cost of transmission and production facilities for the entire system at over $1.7 billion. And stations must construct transmission facilities by the year 2003.

Public television is engaged in a systemwide strategic planning effort that will help define:

- the roles or niches public broadcasting should pursue to be an essential service provider in the new digital environment;

- service/business models that will further our mission and have value in a rapidly changing marketplace; and

- refined cost and operation scenarios for the transition.

But one thing is certain now. We will need federal support to allow public television to use its digital channel to serve the public.

SUMMARY OF PUBLIC BROADCASTING'S SUBMISSION TO OMB IN SUPPORT OF FEDERAL FUNDING FOR THE DIGITAL TRANSITION

Telecommunications in the United States and abroad are in the midst of a revolution, driven by rapid advances in digital technology. These far reaching changes are already forcing us to redefine traditional concepts such as "broadcaster" and "program," and are requiring entire industries — telephones and computers, as well as radio and television — to position themselves for the digital future. At this critical juncture, there is a unique opportunity for a national investment in Public Broadcasting to ensure that the educational needs of the American public are met through the use of digital technology.

For 30 years, Public Broadcasting has utilized the most current technology to ensure that learners of all ages and abilities, and from every socioeconomic level and geographic location, have access to the highest quality, noncommercial educational and cultural programming. Public Broadcasting has always been a pioneer in the use of technology to serve the public interest, and we stand ready to harness the forces of digital technology to continue to educate, enlighten and inform our nation's citizens.

This coming transition to digital broadcast technology stands to revolutionize how we accomplish our core mission. It will greatly affect each station and all the national organizations. In anticipation of this revolution, Public Broadcasting has undertaken a comprehensive planning process to shape our digital future. This process was guided by the Digital Broadcasting Strategic Planning Steering Committee (Digital Steering Committee) composed of representatives of the four national organizations, APTS, PBS, CPB and NPR, as well as station representatives involved in digital technology.

Public Broadcasting proposes a public/private partnership with the federal government to uphold universal access to quality public service programming in the digital age.

Digital technology is not a frill, but a technological imperative. The FCC's mandate that all stations convert to digital programming by 2003 imposes a tremendous financial burden on virtually all public broadcast stations. Public Broadcasting estimates the initial infrastructure investment required to make the transition to digital technology at $1.7 billion.

Unlike commercial broadcasters, public broadcasters are nonprofit or state or local government entities that rely on a grassroots funding structure. Because of these structures, stations are constrained in their ability to finance such a major capital expenditure. The cost of the digital transition will force many stations to either relinquish their digital license or divert already scarce funds from programming and operating budgets.

Some would ask why a renewed government commitment to Public Broadcasting is necessary in the digital age, which promises an unprecedented capability for expansion of commercial channels. The answer is simple. Public Broadcasting is the only entity that can assure that all Americans can have access to high quality educational and cultural resources. The federal government's 30-year history of support for Public Broadcasting recognizes the fundamental tenet: the commercial marketplace cannot be relied upon to provide high quality, noncommercial educational services in the public interest. By investing in Public Broadcasting's transition to digital technology, the federal government can ensure that this revolutionary technology is used to advance the nation's goals of educating the American public.

Public Broadcasting is well positioned to harness the forces of new technology to meet the nation's educational goals.

Digital technology will allow Public Broadcasting to offer all Americans a greatly expanded, interactive and richly detailed world of learning. Through a rigorous analysis, we identified a range of services most appropriate for Public Broadcasting to provide in a digital age. We focused on the needs that are not met or inadequately met in the commercial marketplace, and services that Public Broadcasting is well positioned to provide to meet those needs. We grouped the most compelling services into four major categories and put forward a number of ambitious goals in each category.

Goal: All American children, parents and caregivers will have access to the full complement of the Ready to Learn service.

Public Broadcasting's "Ready to Learn" programming and outreach services are designed to assure school readiness and success for children, particularly ages 2-6. Digital technology's multicasting capability will allow Public Broadcasting to make a more customized and robust Ready to Learn service available to all children, parents and caregivers.

Goal: Technology should be effectively integrated into K-12 education.

Public Broadcasting has a long and successful track record using the latest technologies to provide K-12 educational programs. Approximately 30 million students and 2 million teachers in 70,000 schools are served by public television. Digital technology will allow Public Broadcasting to make these services universally available to all schools and to enhance their value through the integration of video-based programs with online and broadcast data.

Goal: All Americans should have access to lifelong learning resources.

Today, Public Television is the largest source of telecourses in the nation. PBS' Adult Learning Service provides more than 70 accredited telecourses to 400,000 post-secondary students annually. This does not include the hundreds of telecourses, reaching millions of adult learners, offered annually by individual public television stations. Digital technology will allow Public Broadcasting to increase the reach of its post-secondary telecourses so they are universally available to all adult learners.

Goal: All Americans should have access to public service programming.

Public Broadcasting is, and always has been, committed to serving the unserved and underserved populations in our country: those who because of economic, geographic, physical, cultural or language barriers have been left behind by the commercial marketplace. With digital technology, Public Broadcasting can expand and enhance its commitment to serve these populations and ensure that educational digital programming and services are available to all Americans.

The federal government is a necessary partner for the digital transition.

Public Broadcasting must continue its technological leadership in digital broadcasting and preserve the universal reach provided by its stations. Public Broadcasting's transition to digital broadcasting will require an initial investment of more than $1.7 billion.[1] The cost estimates were developed using PBS cost analysis, a survey of the entire public television system, and an analysis of the best radio data available. The breakdown of these costs is shown in the table below.

Transition Costs
($ millions)

Category	Cost
Basic transmission package	$575
Master Control	252
Production equipment	498
DTV Operation	339
Radio	50
Grand Total	$1,715

[1] Because of the difficulty in measurement, this figure does not include the increased costs associated with program acquisition in a digital environment: the costs of producing programs in high definition, increased costs to acquire multicast programming, and additional costs required to enrich or add data to programs. On behalf of the Digital Steering Committee, CPB has requested an increase of $100 million (for a total of $400 million) in its appropriation for FY 2001 as a first step in addressing the increased program costs.

Our approach to this financial hurdle is designed to preserve the federal government's historic role as a crucial partner with us. We therefore requested that the President include 45 percent of the $1.7 billion transition cost, or $771 million in the FY 1999 budget. We estimate that we will outlay the funds over a three-year period; 50 percent in FY 1999, 30 percent in FY 2000, and 20 percent in FY 2001. Public Broadcasting arrived at the $771 million request by dividing the cost of the transition by one-half to reflect a local match of 50 percent, and further subtracting 10 percent to reflect cost efficiencies and savings we anticipate from the transition.

Public Broadcasting will match the federal funding through a combination of individual contributions, corporate underwriting, state funding, and foundation grants. In addition, Public Broadcasting plans to convert the many challenges of the digital transition into opportunities to achieve efficiencies and potential cost savings. Potential efficiencies, that many stations have already begun to explore, include, but are not limited to:

- group purchase discounts with appropriate equipment vendors;
- collaborative arrangements with both public and commercial broadcasters;
- collaborative arrangements with private sector partners; and
- streamlining operations.

While it is difficult to predict whether and to what extent Public Broadcasting will fully realize such efficiencies, we anticipate achieving a net cost savings of 10 percent.

It has been well established by both Congress and successive Administrations that universal access to public service programming is an important and desirable goal. According to a recent Roper poll, the American public believes that among 20 services supported by the federal government, public radio and public television are the second and third best values in return for tax dollars spent. With our 30-year record as a leader in education and technology, we look forward with anticipation to continuing our service to the American people in the digital age.

Potential Educational Benefits of the Digital Transition

The table below represents an educational case that can be made for funding the digital transition. It is recognized, however, that there are other cases that can be made based on community service, public access, local government coverage, or other ideals.

Educational Goals	Public Broadcasting Expertise and Track Record	Benefits of the Conversion to Digital Technology
All American children will begin school ready to learn by the year 2000.	-Public Broadcasting's "Ready to Learn" programming and outreach service is already assuring school readiness and success for children, particularly for ages 2-6. -Participating stations broadcast PBS children's series each day and work with community organizations, social service agencies, and day care providers to train parents, educators, and child care providers how to use Public Television to create an educational environment in the home. -Currently, 120 participating stations cover 88% of the country, and over the past three years public television stations have trained 44,000 parents and 74,000 teachers and caregivers, affecting over 50 million children.	1. Multicasting will allow stations to carry the full complement of "Ready to Learn" programming. 2. Digital television will allow stations to provide more training to parents, educators and child care providers in a more efficient and cost-effective manner. 3. Data delivery capabilities will enhance the quality of "Ready to Learn" and make it possible to customize the service.
Technology should be effectively integrated into K-12 education.	-Public Broadcasting has already integrated technology effectively into K-12 learning environments. -Approximately 30 million students and 2 million teachers in 70,000 schools are served by Public Broadcasting. -Public Broadcasting has pioneered the use of technology to deliver teacher training through groundbreaking programs such as PBS-MATHLINE.	4. Multiplexing will allow additional stations to provide K-12 services to more students. 5. Digital technology will enhance the value of these services by allowing for the integration of video-based programs with online and broadcast data.
All Americans should have access to lifelong learning resources.	-Public Television is already the largest source of telecourses in the nation. -PBS' Adult Learning Service provides more than 70 accredited telecourses to 400,000 post secondary students annually. -Public Broadcasting is a leader in both adult literacy, through its "Literacy Link" initiative, and workforce training, through groundbreaking initiatives such as "The Business Channel" and "Ready to Earn."	6. Digital technology will allow Public Broadcasting to offer post secondary telecourses to thousands more adult learners. 7. Digital technology will significantly enhance telecourses through the integration of data and online content into the programming.
All Americans should have access to public service programming.	-Public Broadcasting is and has been committed to serving the unserved and underserved populations in our country: those who because of economic, geographic, physical, cultural or language barriers have been left behind by the commercial marketplace. -Public Broadcasting pioneered the development of open and closed-captioning for the deaf or hard of hearing, descriptive video service (DVS) and radio reading service for the blind or visually impaired.	8. Digital conversion will allow Public Broadcasters to make noncommercial educational, digital programming and data available to all — including those who cannot afford cable, DBS, computers or Internet access. 9. Digital technology will allow Public Broadcasting to expand its commitment to serving our nation's physically challenged. 10. Digital technology can make programming and information available to non-English speaking populations.

AMERICA'S
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THE ASSOCIATION OF AMERICA'S PUBLIC TELEVISION STATIONS

ADVOCACY ON BEHALF OF PUBLIC TELEVISION STATIONS

The Association of America's Public Television Stations (APTS) is a nonprofit membership organization established in 1980 to support the continued growth and development of a strong and financially sound noncommercial television service for the American public. APTS provides advocacy for public television interests at the national level, as well as consistent leadership and information in marshaling grassroots and congressional support for its members, which are the nation's public television stations.

APTS works closely with individual station representatives to plan and implement appropriate legislative strategies and effect legislative results that enable stations to fulfill their individual missions. As broadcasters begin to make the transition to digital transmission, APTS is working to ensure the federal government continues its commitment to universal public television services.

APTS also works with a station-based volunteer coordinator to generate grassroots support for public television through Community Advocate Teams (CATS) and the National Friends of Public Broadcasting.

REPRESENTATION

The changes in the telecommunications environment and public television's federal funding make APTS' legal and regulatory activities on stations' behalf more important than ever before. APTS advocates stations' interests on taxation, budget, education, cable, digital television and related issues. APTS' regulatory and legal efforts continue to focus on ensuring access to new technologies for public television services; advocating the interests of public television stations in regulatory proceedings at the FCC, NTIA and IRS; participating in litigation where our members' interests are at stake; and providing information about legal and regulatory issues to stations on a systemwide basis.

SIGNALING VALUE

The Association of America's Public Television Stations helps stations to develop a strong base on which to build their own efforts through exhibits and events for members of Congress, the Administration, the media and the public; publications, brochures, fact sheets and position statements covering services and programs offered by stations; the Managing Change Clearinghouse, which collects data on how stations are achieving success, provides analysis from consultants working with stations, and offers tools to deal with new technologies and economic imperatives—publishing *Transitions* with ideas stations can replicate; and a strong online presence, providing in-depth timely information about the association, its members, its activities and the institution of public broadcasting to the general public, through use of electronic mailing lists and a World-Wide Web site.

PLANNING AND RESEARCH

Planning and research activities serve stations by identifying current and emerging issues which influence public television's effectiveness in serving audiences—both now and in the future. The planning and research function is becoming increasingly important as the media environment changes, and the association provides the means for the enterprise to define the future that it wants to advocate in legislative and regulatory arenas nationally and locally.

COMMUNICATIONS

The Association of America's Public Television Stations serves the stations by communicating the concerns and values of public television to many audiences—legislators, regulators, opinion leaders, business leaders, educators and the general public—through media relations, publications, special events and public relations. APTS uses communication as a means of creating a climate for future gains, such as reinforcing the sense of public television's value in the minds of its many audiences.

GOVERNANCE OF THE ASSOCIATION

The Association of America's Public Television Stations is governed by a board of trustees elected by public television station representatives. The board consists of nine public representatives, nine professional representatives and up to six "at-large" trustees, who may be elected by the board. The president of the association also serves as a member of the board of trustees. Members are elected to a three-year term and may serve no more than two consecutive terms.

November 1997

PUBLIC ACCESS TO PUBLIC TELEVISION SERVICES

I. Congress Has Determined That Access to Public Telecommunications Programming Serves a Compelling Government Interest

A. The Public Telecommunications Act of 1992

It is well-founded Congressional policy that the public interest requires that public telecommunications services be accessible by as many citizens as possible, regardless of the technology or systems employed, and regardless of whether those services, in the past, have been primarily distributed by broadcast technology. The Public Telecommunications Act of 1992, signed into law by President Bush on August 26, 1992, adds a new paragraph—396(a)(9)—to the Communications Act of 1934.

396(a)(9) states:

> it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies . . .[1]

The legislative history of this statute is also very clear. The House Committee Report states Congress' finding that access to public telecommunications services, through all available distribution technologies is intended to advance the compelling governmental interest in increasing the amount of educational, informational, and public interest programming available to the public:

> The Committee recognizes the tremendous expansion of telecommunications delivery systems made possible by technological advances. The Committee believes that the full potential of telecommunications as a means to address educational issues can be realized only if <u>the public is provided access to public service programming through all distribution technologies—not just broadcast</u>—that are

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[1] Pub. L. No. 102-356, 106 Stat. 949 (Aug. 26, 1992).

> available to them. To achieve this potential, the sound public policy of reserving broadcast channels for public television and radio should be extended to reserve capacity for public service programming on new distribution technologies.
>
> The Committee believes that it is in the public interest to ensure that all citizens have access to public telecommunications services. The Committee strongly endorses a policy of broad access to the essential public services offered by public telecommunications, regardless of the technology used to deliver those services, in order to advance the compelling governmental interest in increasing the amount of educational, informational, and public interest programming available to the nation's citizens.[2]

B. The Public Broadcasting Act of 1967 and Its Progeny

Congress has long advocated a strong federal policy of access to public telecommunications services. In the 1967 Act, Congress found that:

> it is necessary and appropriate for the Federal Government to complement assist, and support a national policy that will most effectively make public telecommunications services available to all citizens of the United States.[3]

Congress' emphasis on the nonbroadcast delivery of public telecommunications services is not new. From the inception of public broadcasting, Congress has recognized the importance of utilizing

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[2] H.R. Rep. No. 363, 102d Conger 1st Sess. 18 (1991) [emphasis added]. The Senate Report on this legislation contains similar language, see, e.g. S. Rep. No. 221, 102d Cong., 1st Sess. 7 (1991).

[3] 47 U.S.C. 396(a)(7). Congress has repeatedly reaffirmed its support for access to public service programming in its annual appropriations deliberations and every three years in its reauthorization of funding. Since 1967, Congress has appropriated approximately $3.89 billion (through FY 1995) to fund public service programming through CPB, and approximately $597 million, through FY 1992) for the planning and construction of public television and radio facilities, including the public broadcasting satellite distribution system.

nonbroadcasting distribution mechanisms for the delivery of public service programming: "it is in the public interest to encourage the growth and development of nonbroadcast telecommunications technologies for the delivery of public telecommunications services. " 47 U.S.C. 5396(a) (2). Congress has continued to support access to public service programming through emerging nonbroadcast delivery technologies. The Definitions section of the 1967 Act makes provision for the dissemination of noncommercial educational programming over both broadcast and other than broadcast facilities. See 47 U.S.C. §§397 (6) and (7).

In 1978, Congress adopted the Telecommunications Financing Act to assist in the funding of public telecommunications facilities, to "extend delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies."[4] The Senate Report to the 1978 Act specifically anticipated "the breakthroughs that are likely in optical fiber," among other technologies, and noted that "[ilt is in the public interest for public broadcasting to practicable of these new technologies."[5]

C. The Cable Television Consumer Protection and Competition Act of 1992 and other Statutes

Since the Commission's video dialtone decision, Congress has also adopted policies facilitating access for public service programming in two additional distribution technologies: cable and direct broadcast satellite ("DBS"). In the Cable Act, which became law on October 5, 1992, Congress has required cable to carry public television stations. In so doing, Congress recognized:

> a substantial governmental and First Amendment interest in ensuring that cable subscribers have access to local noncommercial educational stations which Congress has authorized, as expressed [in the Communications Act of 1934.][6]

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4 (47 U.S.C. §390) (Emphasis added).

5 Senate Committee on Commerce, Public Telecommunications Financing Act of 1976, S. Rep. No. 95-858, 95th Cong. 2d Sess. 6.

6 The Cable Act, § 2(a)(7).

Congress specifically recognized that its "must carry" provision was part of its broader policy of facilitating the delivery of public telecommunications services:

> The government has a compelling interest in ensuring that [public telecommunications services] remain fully accessible to the widest possible audience without regard for the technology used to deliver these educational and informational services.[7]

Congress recognized that laws guaranteeing access to cable systems are necessary in part because "public television has provided precisely the type of programming commercial broadcasters and cable operators find economically unattractive."[8]

In the same cable legislation, Congress provided for reservation of capacity, and for preferential rates, for the distribution of public service programming on the newly emerging direct broadcast satellite service.[9] The law provides that a DBS service provider must reserve between 4 and 7 percent of its channel capacity "exclusively for noncommerical programming of an educational or informational nature."[10] The provider shall make capacity available "upon reasonable prices, terms, and conditions, as determined by the Commission . . ." In determining reasonable prices, "the Commission shall take into account the nonprofit character of the programming provider and any Federal funds used to support such programming"; and shall not permit prices in excess of 50% of the total direct costs of making the channel available.[11]

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7 H.R. Rep. 682, 101st Cong., 2d Sess. 47 (1991) [emphasis added].

8 Id. at 48.

9 Congress had previously expressed its intent that the public have access to satellite delivered public service programming by requiring that at least one channel of Public Broadcaster's satellite-distributed National Program Service must remain unencrypted. This provides home satellite dish owners access to public broadcasting without having to be concerned about how much such access will cost. 47 U.S.C. §605 (C).

10 Cable Act, §335 (b)(1).

11 Id. at §335 (b) (4).

This provision of the Cable Act was appealed and declared unconstitutional by the U.S. District Court.[12] A three-judge panel of the federal Court of Appeals for the D.C. Circuit reversed the District Court and held the set-aside constitutional. The three-judge panel found that the DBS set-aside "represents nothing more than a new application of a well-settled governmental policy of ensuring public access to noncommercial programming."[13] The must carry and DBS provisions constitute the most recent strong and unequivocal restatements of Congress' fundamental public telecommunications access policy.

Significantly, Congress has also manifested concern that access by the American public to public television must be ensured in the common carrier context, Section 396 (h)(1) of the Communications Act, states: "Nothing in this Act, or in any other provision of law, shall be construed to prevent United States common carriers from rendering free or reduced rate communications interconnection services for public television. . .[14]

II. Access to Public Telecommunications Services Has Also Been A Steadfast Commission Policy

Until the issuance of the subject Report and Order, Commission policies have always resonated with the Congressional mandates discussed above. Beginning in 1952, the Commission, recognizing the unique and important services that such television programming could offer, reserved 242 channels on Ultra High Frequency (UHF) spectrum (Channels 14-83) for educational television.[15] Since then, the Commission has defended these reservations against efforts by commercial broadcasters to de-reserve them;[16] and it has reserved additional channels to further the reach of public television

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12 Daniels Cablevision, Inc., v. United States, 835 F. Supp. 1 (D.D.C.) 1993.

13 Time Warner Entertainment Co. v. FCC, 93 F. 3d 957 (D.C. Cir.) 1996.

14 47 U.S.C. §396 (h) (1).

15 Television Assignments, Sixth Report and Order, 41 F.C.C. 148 (1952).

16 See, e.g., Television Assignments in New Smyrna Beach, Florida 50 R.R.2d 1714 (1982); Television Assignments in Houston, Texas, 50 R.R.2d 1420 (1982); Table of Assignments in Ogden, Utah, 26 F.C.C. 2d 142 (1970), recon. denied, 28 F.C.C. 2d 705 (1971); Channel Assignments in Hamilton, Alabama, 21 R.R. 1577 (1961), 17 R.R. (1961); Channel Assignments in Longview-Denton, Texas, 17 R.R. 1549(1958); recon denied, 17 R.R. 1552a (1959); Channel Assignments to Des Moines, Iowa, 14 R.R. 152d (1956), recon denied, 14 R.R. 1528 (1956).

service,[17] to provide better picture quality,[18] to permit the formation of networks of noncommerical educational stations.[19]

The Commission also recognized the need for cable carriage rules to ensure access to public television programming. In its 1990 Cable Report to Congress, the Commission stated:

> Because of the unique service provided by noncommercial television stations, and because of the expressed governmental interest in their viability, we believe that all Americans should have access to them. We believe that mandatory carriage of noncommerical television stations would further this important goal.

Most recently, the Commission has affirmed its commitment to the continued vitality of noncommercial television in the digital world. Specifically, in a report and order recently issued in the digital television proceeding, the Commission recognized "the high quality programming service noncommercial stations have provided to American viewers over the years" as well as "the financial difficulties faced by noncommerical stations." Because "noncommerical stations will need and warrant special relief measures to assist them in the transition to DTV." the Commission expressed its intent "to grant such special treatment to noncommerical broadcasters to afford them every opportunity to participate in the transition to digital television.[20]

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[17] See, Television Channel Assignment at Anchorage, Alaska, 68 R.R. 2d 1121 (1990); Television Channel Assignment at Victoria, TX, 52 R.R.2d 1508 (1993); Television Assignment at Seaford, Del., 43 R.R.2d 1551 (1978); Television Channel Assignment at Mount View, Ark., 38 R.R. 2d 1298 (1976); Television Channel Assignment at Eufaula, Okla., 35 R.R. 2d 1039 (1975); Television Channel Assignment at Booneville, Miss., 27 R.R. 2d 246 (1973); Television Channel Assignment at Parson, Kansas, 23 R.R. 2d 1707 (1972); Television Channel Assignment at the Virgin Islands., 20 R.R. 2d 1659 (1970) (Mileage separation requirements with co-channels in Puerto Rico waived; the most important factor for waiver is that the channels were for educational use); Television Channel Assignment at Las Cruces, New Mexico, 14 R.R. 2d 1518 (1967) (18 UHF channels assigned to Hawaii, with 9 reserved for noncommercial educational use); Television Channel Assignment Eagle Bute, S.D., 10 R.R. 2d 1767; Television Channel Assignment in Staunton, VA., 5 F.C.C. 2d 537 (1966).

[18] Television Channel Assignment at Nashville, Tenn., 26 R.R. 2d 1667 (1973).

[19] Television Channel Assignment at McGill, Nevada and Richfield, Uta., 24 R.R. 2d 1855 (1972).

[20] Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, MM Docket No. 87-268, Fifth Report and Order (rel. April 21, 1997), ¶ 101.

AMERICA'S PUBLIC TELEVISION STATIONS

APTS [illegible] REPORT

DIGITAL TELEVISION

On April 21,1997, the FCC culminated its ten year digital television (DTV) proceeding by adopting DTV service rules and a Table of Allotments and Assignments of digital television channels to broadcasters. The Commission targeted the date of 2006 for the ending of NTSC service. Public television stations have until May 1, 2003 to complete construction and begin operating digital transmission facilities.

Based upon comprehensive information gathered through surveying member stations, on June 13, 1997, APTS filed, with PBS, a joint Petition for Reconsideration and Clarification of portions of the FCC's DTV orders. In the petition, APTS and PBS requested a number of modifications to the Commission's rules, which, if adopted, would provide public television licensees with added flexibility to deal with the burdens of the transition to digital television, without affecting the basic planning factors and principles underlying the FCC's Table of DTV Allotments. In particular, the petition sought relief for public television stations with digital assignments outside the core spectrum and for public television translator stations. Additionally, APTS and PBS sought clarification of certain aspects of the Reports, including clarification that public television licensees can use the excess transmission capacity offered by digital transmission for commercial, revenue-generating purposes in order to help defray the costs of constructing and operating their DTV facilities.

EARLY REALLOCATION OF CHANNELS 60-69

On July 10, 1997, the FCC released a rulemaking on the reallocation of Channels 60-69 in the 746 - 806 MHz band. The FCC is proposing to allocate 24 MHz to the public safety service and allocate the remaining 36 MHz to the fixed, mobile, and broadcasting services to be assigned through competitive bidding. APTS and PBS filed comments on the FCC's proposal on September 15, 1997. The comments addressed the importance of providing measures to afford public television stations with DTV assignments in the 60 - 69 band relief in the timing and costs associated with relocation. Additionally, APTS and PBS advocated full protection for existing NTSC stations in that band until the end of the transition. Lastly, APTS and PBS requested flexibility for public television translator stations in that band in engineering assignments into the table.

[illegible] CONNECTICUT AVENUE NW WASHINGTON DC [illegible] 202 [illegible] FAX 202-293-2422 INTERNET [illegible]

PREEMPTION OF ZONING

In response to a request filed by the NAB, on May 30, 1997, the FCC released a Notice of Proposed Rulemaking proposing to preempt certain state and local governmental restrictions that impair the ability of broadcasters to site, construct or modify broadcast facilities during the DTV transition. APTS and PBS filed comments supporting the FCC's proposed preemption rules on October 30, 1997, pointing out the importance of providing public television licensees flexibility in locating and constructing DTV facilities and the ability to comply with the rapid DTV implementation schedule.

DBS RULEMAKING

The 1992 Cable Act directed the FCC to initiate rules to impose public interest requirements on direct broadcast satellite (DBS) service providers. Under the Act, service providers must reserve four to seven percent of their capacity for noncommercial educational programming made available at reasonable prices, terms and conditions. Now that five years of litigation has resolved the constitutionality of these provisions of the Act, the FCC is able to adopt DBS rules.

APTS and PBS urged the Commission to adopt, as expeditiously as possible, comprehensive rules that extend the power of DBS technology to noncommercial educational uses. APTS and PBS advocated rules that ensure that public broadcasters are given maximum access to DBS facilities on reasonable terms and in amounts and at times that will permit such entities to reach the maximum possible audience. Specifically, APTS and PBS proposed that the Commission impose a fixed seven percent set-aside requirement for DBS providers in view of the growth in capacity of all DBS systems since 1992 and the continuing advances in compression technology. Further, APTS and PBS requested that the Commission limit access to the reserved capacity to the noncommercial entities specified in the statute, which are bona fide non-profit providers of educational programming.

UNIVERSAL SERVICE

The Telecommunications Act requires that the FCC adopt rules to implement the universal service directives of the Act to ensure access to telecommunications services for schools, libraries, and rural health care facilities through discounted rates on telecommunications carriers. APTS, PBS, and NPR recently learned that the FCC may interpret the universal service rules to impose requirements that certain public television

and radio stations pay contributions into the universal service fund. FCC staff has opined that any revenues derived by public television or radio through leasing excess capacity on the vertical blanking interval of broadcast channels, on ITFS channels, or on satellite transponders will be subject to universal service contributions. APTS, PBS, and NPR believe that this clearly is not the intent of Congress. Accordingly, APTS, PBS, and NPR have requested clarification regarding the application of the Commission's universal service rules to public broadcast stations and ITFS licensees. If the Commission concludes that the language of the universal service rules extends the requirement for contributions to the universal fund to revenues derived from lease arrangements, APTS, PBS, and NPR have requested an exception or waiver of this requirement.

MAIN STUDIO AND PUBLIC INSPECTION FILE RULES

APTS and PBS filed comments on August 8 with the FCC on its proposed revisions to its main studio and public inspection file rules. APTS and PBS supported the FCC's proposal to relax its main studio location rule to a standard requiring the main studio be "reasonably accessible" to its community of license. Relaxation of the main studio rule would provide public television stations with more flexibility in locating their main studios. Additionally, APTS and PBS supported the FCC's proposed elimination of unnecessary public inspection file requirements in order to ease licensees' responsibilities. Further, APTS and PBS requested that the FCC clarify public television stations' retention responsibilities regarding the requirement to attach a summary of citizen complaints of violent programming to renewal applications.

2 GHZ RELOCATION

The FCC adopted an order reallocating 70 MHz of spectrum in the 2 GHz band to the mobile satellite service ("MSS"). This reallocation necessitates moving the existing broadcast auxiliary services ("BAS") in the 1990-2025 MHz frequencies to the 2025-2130 MHz band. The FCC's order specifies that the MSS entrants must bear the costs of relocation. The FCC sought public comment on the costs and timing associated with the relocation.

APTS and PBS filed comments with the FCC on July 21, 1997, stressing the importance of the MSS entrants bearing the full costs of the BAS relocation. Further, APTS and PBS supported the recommendation for a broadcast industry negotiating entity composed of NAB, MSTV and a public television representative to effect the transition in a timely and fair manner and to ensure reimbursement of relocation costs for all broadcast licensees.

Public Television Stations* by Licensee Type

Community (88) (49%)
KAKM, ANCHORAGE AK
KTOO, JUNEAU AK
KYUK, BETHEL AK
KCET, LOS ANGELES CA
KEET, EUREKA CA
KIXE, REDDING CA
KQED, SAN FRANCISCO CA
KRCB, ROHNERT PARK CA
KTEH, SAN JOSE CA
KVIE, SACRAMENTO CA
KVPT, FRESNO CA
KBDI, BROOMFIELD CO
KRMA, DENVER CO
CONNECTICUT PTV
WETA, WASHINGTON DC
WHYY, PHILADELPHIA PA
WEDU, TAMPA FL
WJCT, JACKSONVILLE FL
WMFE, ORLANDO FL
WPBT, MIAMI FL
WXEL,WEST PALM BEACH FL
KGTF, GUAM
WMEC/WSEC/WQEC, MACOMB IL
WTTW, CHICAGO IL
WTVP, PEORIA IL
WFWA, FORT WAYNE IN
WFYI, INDIANAPOLIS IN
WNIN, EVANSVILLE IN
WNIT, SOUTH BEND IN
WYIN, GARY IN
KOOD/KSWK, BUNKER HILL KS
KPTS, WICHITA KS
WYES, NEW ORLEANS LA
WGBH/WGBY, BOSTON MA
MAINE PUBLIC TELEVISION
WTVS,DETROIT MI
KAWE, BEMIDJI MN
KTCA/KTCI, ST. PAUL MN
KWCM, APPLETON MN
WDSE, DULUTH MN
KCPT, KANSAS CITY MO
KETC, ST. LOUIS MO
KOZK/KOZJ, SPRINGFIELD MO
WTVI, CHARLOTTE NC
PRAIRIE PUBLIC BROADCASTING
WNET, NEW YORK NY
KNPB, RENO NV
WCFE, PLATTSBURGH NY
WCNY, SYRACUSE NY
WLIW, LONG ISLAND NY
WMHT/WMHQ, SCHENECTADY NY
WNED/WNEQ, BUFFALO NY
WNPE/WNPI WATERTOWN NY
WSKG, BINGHAMTON NY
WXXI, ROCHESTER NY
WCET, CINCINNATI OH
WGTE, TOLEDO OH
WNEO/WEAO, AKRON OH
WPTD/WPTO, DAYTON OH
WVIZ, CLEVELAND OH
KSYS, MEDFORD OR
OREGON PUBLIC BCASTING
WITF, HARRISBURG PA
WLVT, ALLENTOWN PA
WQED/WQEX, PITTSBURGH PA
WQLN, ERIE PA
WVIA, SCRANTON PA
WYBE, PHILADELPHIA PA
WIPM/WIPR, MAYAGUEZ PR
WCTE, COOKEVILLE TN
WKNO, MEMPHIS TN
WLJT, LEXINGTON TN
WSJK, KNOXVILLE TN
WTCI, CHATTANOOGA TN
KCOS, EL PASO TX
KCTF, WACO TX
KEDT, CORPUS CHRISTI TX
KERA/KDTN, DALLAS TX
KLRN, SAN ANTONIO TX
KLRU, AUSTIN TX
KMBH, HARLINGEN TX
WBRA, ROANOKE VA
WCVE/WCVW/WNVC/WNVT, RICHMOND VA
WHRO, NORFOLK VA
WVPT, HARRISONBURG VA
VERMONT ETV
KCTS/KYVE, SEATTLE WA

Local Authority (8) (5%)
KLCS, LOS ANGELES CA
WLRN MIAMI FL
WPBA, ATLANTA GA
KSMQ, AUSTIN MN
KLVX, LAS VEGAS NV
WNYE, NEW YORK NY
WDCN NASHVILLE TN
KSPS, SPOKANE WA

State (23) (12%)
ALABAMA PUBLIC TV
ARKANSAS ETN
KVZK, PAGO PAGO
GEORGIA PUBLIC TELEVISION
HAWAII PUBLIC TELEVISION

* All FY98 CSG Recipients

Public Television Stations* by Licensee Type

State (23) (12%), con.

IOWA PUBLIC TELEVISION
IDAHO PUBLIC TELEVISION
KENTUCKY EDUCATIONAL TV
WKPC, LOUISVILLE KY
LOUISIANA PUBCASTING
WLAE NEW ORLEANS
MARYLAND PUBLIC TV
MISSISSIPPI ETV
NEBRASKA ETV
NEW JERSEY NETWORK
OKLAHOMA ETA
WSBE, PROVIDENCE RI
SOUTH CAROLINA ETV
SOUTH DAKOTA PUBLIC TV
WTJX, ST. THOMAS
KBTC, TACOMA WA
WISCONSIN ETV
WEST VIRGINIA PTV

University (60) (34%)

KUAC, FAIRBANKS AK
KAET, PHOENIX AZ
KUAT, TUCSON AZ
KCSM, SAN MATEO CA
KOCE, HUNTINGTON BEACH CA
KPBS, SAN DIEGO CA
KVCR, SAN BERNARDINO CA
KTSC, PUEBLO CO
WHMM, WASHINGTON DC
WBCC, COCOA FL
WCEU, DAYTONA FL
WFSU, TALLAHASSEE FL
WGCU, FORT MYERS FL
WSRE, PENSACOLA FL
WUFT, GAINESVILLE FL
WUSF, TAMPA FL
WEIU, CHARLESTON IL
WILL, URBANA IL
WQPT, MOLINE IL
WSIU/WUSI, CARBONDALE IL
WYCC, CHICAGO IL
WIPB, MUNCIE IN
WTBU, INDIANAPOLIS IN
WTIU, BLOOMINGTON IN
WVUT, VINCENNES IN
KTWU, TOPEKA KS
WKYU, BOWLING GREEN KY
WCMU, MOUNT PLEASANT MI
WFUM, FLINT MI
WGVU/WGVK, GRAND RAPIDS MI
WKAR, EAST LANSING MI
WNMU, MARQUETTE MI
WUCM, UNIVERSITY CENTER MI
KMOS, WARRENSBURG MO
KUSM, BOZEMAN MT
NORTH CAROLINA PTV
KUON, LINCOLN NE
NEW HAMPSHIRE PTV
KENW, PORTALES NM
KNME, ALBUQUERQUE NM
KRWG, LAS CRUCES NM
WBGU, BOWLING GREEN OH
WOSU, COLUMBUS OH
WOUB, ATHENS OH
KRSC, CLAREMORE OK
WPSX, CLEARFIELD PA
WMTJ, RIO PEDRAS PR
KACV, AMARILLO TX
KAMU, COLLEGE STATION TX
KNCT, KILLEEN TX
KOCV, ODESSA TX
KTXT, LUBBOCK TX
KUHT, HOUSTON TX
KBYU, PROVO UT
KUED, SALT LAKE CITY UT
KULC, OGDEN UT
KWSU, PULLMAN WA
WHA, MADISON WI
WMVS/WMVT, MILWAUKEE WI
KCWC, LANDER WY

* All FY98 CSG Recipients

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Telecommunications Trends and Their Impact on Public Television Stations

John Carey
Greystone Communications

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The Association of America's Public Television Stations

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