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December 17, 1997

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**BY HAND DELIVERY**

William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M. Street, N.W. Room 222  
Washington, DC 20554

Re: MM Docket No. 87-268

Dear Mr. Caton:

Enclosed herewith for filing with the Commission on behalf of Fouce Amusement Enterprises, licensee of television broadcast station KRCA, Riverside California, are an original and four copies of its Comments in Response to the MSTV and ALTV Filings in the above-captioned proceeding.

Should there be any questions regarding this matter please feel free to contact me.

Very truly yours,



John I. Stewart, Jr.

Enclosure

cc: Richard Smith  
Bruce Franca  
Bob Eckert  
Gordan Godfrey

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
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DEC 17 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Advanced Television Systems ) MM Docket No. 87-268  
and Their Impact upon the )  
Existing Television Broadcast )  
Service )

**COMMENTS IN RESPONSE TO MSTV AND ALTV FILINGS**

Fouce Amusement Enterprises ("FAE"), by its attorneys, provides these comments in response to the Public Notice dated December 2, 1997, regarding certain recent *ex parte* presentations made by the Association for Maximum Service Broadcasters, Inc. ("MSTV") and the Association of Local Television Stations, Inc. ("ALTV") in the above-captioned proceeding. Fouce is the licensee of television station KRCA, Channel 62 ("KRCA"), which operates in the Los Angeles television market. In these comments, FAE presents two alternative channel allocations for KRCA that will allow the station to operate a DTV facility within either the framework proposed by the Commission in its Sixth Report and Order<sup>1</sup> or that proposed by MSTV.

**INTRODUCTION**

FAE has filed a Petition for Reconsideration of the Sixth Report and Order, in which it demonstrated that the Commission's proposed allocation of DTV

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<sup>1</sup> In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, Sixth Report and Order, 7 Communications Reg. (P&F) 994 (1997).

Channel 69 to KRCA was arbitrary and capricious, and unlawful. Since the release of the Sixth Report and Order, KRCA and its consulting engineers have worked diligently to identify an alternative channel assignment that could provide for a viable DTV operation by KRCA. As the Commission's Staff is well aware, and as the MSTV proposal makes clear, it is especially difficult to accommodate all necessary channel assignments in the Los Angeles television market because of the number of stations, its unique terrain features, and its proximity to Mexico.

Given these difficulties, and given the interrelation between rectifying the unlawful allocation to KRCA and accommodating proposals made for and by multiple other stations in the Los Angeles market, FAE has been unable until recently to identify the best available alternative channel assignments. With the MSTV presentation as a point of comparison, however, FAE now proposes that the Commission allocate KRCA one of the following alternative channel pairs:

	6TH R&O	ALTERNATIVE 1	ALTERNATIVE 2
<b>NTSC Channel / Location</b>	62 Sunset Ridge	68 Mt. Wilson	62 Mt. Wilson
<b>DTV Channel / Location</b>	69 Sunset Ridge	62 Mt. Wilson	68 Mt. Wilson

Either of these alternatives would involve a modification of KRCA's transmitter location from its current Sunset Ridge site. Such a modification will serve the Commission's important policy objectives of assuring that every eligible broadcast station receives a usable DTV channel assignment and that a competitively viable DTV service with diverse voices will exist after the transition period.

## **I. The Commission Must Modify KRCA's Channel Allocation.**

As demonstrated in KRCA's Petition for Reconsideration, KRCA's DTV channel allotment on Channel 69 would have been completely unusable because of the substantial number of adjacent-channel land mobile base stations that operate at KRCA's transmitter site and mobile transmitters that operate throughout the area. The assignment was directly contrary to the Commission's own findings and policies and to the uniform views of experts and interested parties.

In adopting a DTV channel assignment methodology, the Commission's primary goal was "full accommodation," that is, to "ensure that all eligible full service broadcasters are able to provide the new digital TV service."<sup>2</sup> The Commission's assignment of DTV Channel 69 to KRCA was flatly inconsistent with this criterion, effectively denying KRCA, and its viewers, access to a DTV channel. If the Commission's DTV allotment plan cannot provide "full accommodation" for all eligible stations, then the Commission must either modify its allotment plan or propose, seek comment on, adopt and properly apply a rational procedure for selecting among eligible stations, rather than arbitrarily selecting KRCA not to receive a viable DTV channel.

The assignment to KRCA of a DTV channel outside the core spectrum also imposes a substantial and unequal burden on KRCA. In the Los Angeles market, even under the MSTV proposal, 18 other stations are given at least one

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<sup>2</sup> Sixth Further Notice of Proposed Rule Making, 11 FCC Rcd 10968, at ¶ 10 (1996); Sixth Report and Order, 7 Communications Reg. (P&F) at 1000-01.

assignment, and most of them two, within channels 2-51.<sup>3</sup> Although the alternative allocations proposed above leave KRCA without a core spectrum assignment, the unequal treatment of stations in this regard justify making accommodations to KRCA, both to allow commercially viable operation during the transition period and to provide preferential inside-core channel selection thereafter.

## **II. Channel 68 Is Appropriate For Assignment to KRCA.**

The Sixth Report and Order proposed to allocate DTV Channel 68 at Mt. Wilson to KTLA. After review of the allocation table, KTLA proposed that it be allocated DTV Channel 31 rather than Channel 68.<sup>4</sup> Its licensee company has since joined in the MSTV proposal, which would allocate DTV Channel 41 to KTLA. Thus, the station to which the Commission proposed to assign DTV Channel 68 at Mt. Wilson has opposed that assignment on technical grounds, and the channel is available for assignment to KRCA.

The MSTV plan proposes that KRCA be assigned DTV Channel 61 at Sunset Ridge. FAE believes, however, that the MSTV plan for Southern California cannot be adopted intact. The following DTV channel allocations it proposes for the Los Angeles market appear to raise problems of short-spacing or

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<sup>3</sup> See Attachment 1.

<sup>4</sup> See Reply Comments of Tribune Broadcasting in ET Docket No. 97-157 (Oct. 14, 1997).

interference with U.S. or Mexican stations or construction permits or land mobile interference problems: 21, 23, 38, 42, 45, 49. Given the chain-reaction effects of resolving some or all of these problems, there can be no assurance that MSTV's proposed DTV Channel assignment for KRCA would be workable. For example, even if short-spacing problems with U.S. or Mexican stations and assignments could all be worked out through negotiation, KRCA believes that Channel 21 is a nonviable DTV allocation given the land mobile operations occupying Channel 20 in Los Angeles. Avoiding this one problem alone would require use of an additional channel, thus putting MSTV's overall proposals for the region into question.

By contrast, Channel 68 appears to be workable and appropriate. The channel had been allocated to Los Angeles as a full-power NTSC facility at Mt. Wilson more than 25 years ago. Amendment of Section 73.606(b) of the Commission's Rules (Los Angeles, Calif.), 31 FCC 2d 666 (1971). It was designated for noncommercial use, and was actually operated during 1987, until it was ordered off the air for transmitting at variance with its construction permit, and the construction permit was ultimately revoked after protracted proceedings. Black Television Workshop of Los Angeles, 8 FCC Rcd 4192 (1993).

In the Sixth Report and Order, the Commission proposed to eliminate vacant NTSC allotments, including Channel 68, in a later order to follow the ultimate DTV allocation order. 7 Communications Reg.(P&F) at 1025-26 & n.192. The purpose of the proposed deletions was to make channels available, where

needed, to accommodate DTV allocations. Thus, Channel 68 is available for use and meets all spacing requirements for a full-power NTSC station operating from Mt. Wilson.

**III. Allocating KRCA's NTSC and DTV Channels for Use at Mt. Wilson Will Serve the Public Interest.**

Two principal transmitter sites are used by television stations serving the Los Angeles market : Mt. Wilson (NTSC Channels 2, 4, 5, 7, 9, 11, 13, 22, 28, 34, 40, 46, 52, and 58) and Sunset Ridge (Channels 18, 30, 56, and 62). The Mt. Wilson site permits superior service, in part because of general receive antenna orientation patterns driven by the preponderance of stations that use the site. It would be in the public interest to allow all market stations to use the Mt. Wilson site, to maximize coverage and to avoid inequality. This is particularly so at this juncture, when the Commission is adopting an entire new table of allocations to accommodate transition to the DTV regime. Maximizing the collocation of DTV transmitters within a market will permit the most efficient and effective provision of the new DTV service.

Hence, FAE proposes the amendment of its NTSC and DTV allocations to specify operation from Mt. Wilson.<sup>5</sup> This will permit greater collocation and improved service to the Los Angeles market. In particular, it will bring Channel 62 to Mt. Wilson, and allow DTV Channel 61 also to be moved to the same site, at

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<sup>5</sup> The reference points are 34° 13' 37" N. Latitude, 118° 03' 53" W. Longitude.

which the Commission proposed to locate DTV Channel 60 in the Sixth Report and Order. This will reduce potential interference in the DTV service. Moreover, KRCA's Asian-language programming serves significant minority populations dispersed throughout the area, and allowing it to broadcast from Mt. Wilson will remove the inequality that has hindered its service in the past.

**IV. The Commission Should Assign NTSC Channel 68 Contingent on KRCA's Application to Construct DTV Channel 62 and Convert NTSC Operation to Channel 68.**

Because KRCA currently broadcasts on Channel 62, its operation during the transition period on NTSC Channel 68 cannot commence until it is ready simultaneously to commence DTV operations on Channel 62. Hence, FAE requests that the Commission specify a dual allocation in the DTV table (DTV Channel 62\*/68, Riverside, Calif.) and a corresponding dual allocation in the subsequently amended NTSC table (Channel 68\*/62, Riverside, Calif.), with an explanation that the asterisked new allocation is to be effective, pursuant to grant of the necessary construction permits, as of KRCA's termination of NTSC operations on Channel 62. This will allow KRCA to make, and the Commission to consider, the appropriate technical showings for construction of NTSC Channel 68 (or, under Alternative 2, Channel 62<sup>6</sup>) at Mt. Wilson.

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<sup>6</sup> NTSC Channel 62 at Mt. Wilson would apparently require a waiver of a UHF Taboo because of the operation of Channel 58 there, but preliminary studies indicate that no prohibited interference between the two signals would occur at ground level in any populated areas.

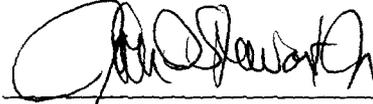
Precedent for such an approach exists in the form of the conditional allocation of NTSC Channel 66 at Elgin, Illinois, with a footnote to the Table of Allocations explaining that the channel would be available only if and when the Commission found the channel was not needed for use at Joliet, Illinois. Amendment of Section 73.606(b) (...Elgin and Joliet, Illinois ...), 23 FCC 2d 218 (1970). Similarly here, Channel 68 could be allocated to Riverside with a footnote explaining that it would be available only if and when KRCA converted its NTSC operation on Channel 62 to DTV.

**V. KRCA Supports ALTV's Comments.**

KRCA supports the comments of ALTV regarding its proposed method of remedying the power disparity faced by certain UHF stations under the Commission's policy of service area replication. In addition to adopting ALTV's proposal to improve service by allowing increased power with beam tilt or other methods to avoid new interference, KRCA urges that the Commission expressly permit flexibility in the use of on-channel boosters or repeaters to fill in areas blocked by terrain or other obstacles within the station's service area. If a station uses a directional antenna pattern to conserve energy in such a situation, the Commission should also protect the station within the area that would result if it had used an omnidirectional antenna at maximum power, and allow the use of on-channel boosters or repeaters to serve portions of that area not within the predicted contour of its directional pattern.

Respectfully submitted,

FOUCE AMUSEMENT  
ENTERPRISES



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Its Counsel

December 17, 1997

**LOS ANGELES MARKET  
CHANNEL ALLOCATION PROPOSALS  
(FCC Sixth Report And Order and MSTV Proposal)**

CITY	CALL	NTSC	DTV	
			6TH R&O	MSTV
Los Angeles	KCBS	2	60	23
Los Angeles	KNBC	4	36	36
Los Angeles	KTLA	5	68	41
Los Angeles	KABC	7	8	42
Los Angeles	KCAL	9	43	43
Los Angeles	KTTV	11	65	38
Los Angeles	KCOP	13	66	33
San Bernardino	KSCI	18	61	66
Los Angeles	KWHY	22	42	21
San Bernardino	KVCR	24	26	45
Los Angeles	KCET	28	59	32
San Bernardino	KZKI	30	38	26
Los Angeles	KMEX	34	35	35
Santa Ana	KTBN	40	53	53
Rancho Palos Verdes	KRPA	44	51	29
Ontario	KHSC	46	47	47
Huntington Beach	KOCE	50	48	49
Corona	KVEA	52	39	39
Anaheim	KDOC	56	32	55
Los Angeles	KLCS	58	41	59
Riverside	KRCA	62	69	61