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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

RM Docket No. 9260

To: The Commission

REPLY COMMENTS OF KM BROADCASTING, INC.

KM Broadcasting, Inc. ("KMB"), licensee of Low Power Television Station WXOB-LP, Channel 14, Richmond, Virginia, hereby submits its reply comments in response to the FCC Public Notice released on April 21, 1998, with respect to the comments submitted in the above-referenced proceeding. Specifically, KMB would oppose the positions taken by the National Association of Broadcasters and the Association of America's Public Television Stations ("APTS") in their comments filed in this proceeding.

The NAB's comments are as predictable as they are wrongheaded. The NAB has attempted to frustrate the continued existence of the LPTV industry at every turn. Now, despite having won the right to operate on a second channel free of charge to the American people, in an era when virtually every other slice of available spectrum must now be purchased from the Federal government at auction, the NAB still opposes what should prove to be a small percentage of currently licensed LPTV stations from obtaining a primary television license. This despite the obvious tenor of the CBA proposal to protect all existing full-power stations, including DTV

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allotments. In addition, the NAB's assertion that the proposal would create a station "without the burdens of all regulations of full-power stations" is simply not true.¹

The CBA proposal, as KMB understands it, does not in any way intend to impede the development of the DTV service². NAB's claims to the contrary are thus red herrings and in no way undermine the basic validity of the CBA proposal. Any Class A stations created pursuant to this proposal would presumably be required to protect all of the current DTV allotments as authorized by the Commission, as well as adhere to all requirements of the Commission with respect to the regulation of primary television stations.

The NAB comments also seems to be hinting at the same issue which is the fundamental principle supporting the APTS opposition to the CBA proposal, i.e., that the creation of a Class A television service would somehow affect the future right of primary stations to improve their service after the conversion process to digital broadcasting is completed. This is a ridiculous reason to oppose the creation of a Class A service.

If, indeed, primary television stations must have a second channel for conversion purposes, it is unbelievable avarice to then demand the right to expand service virtually forever once the conversion process is completed. While KMB understands that the allocation process was based on the principle of coverage

¹ And in fact, this assertion is not explained in any detail in the NAB's comments.

² Logic dictates that it could not and have any chance of success before the FCC.

replication, it is not based the principle of eternal coverage expansion. This notion is particularly offensive, when it is considered that the coverage expansion for APTS stations will be at the taxpayer's expense, through public funding of APTS, and at additional taxpayer expense as the APTS tries to put more LPTV stations out of business.

To oppose a proposal that will benefit the American public, and thus the public interest, in the present, by preserving existing television service, on account of some theoretical, unlikely consequences many years in the future, is simply not logical nor reasonable. Therefor, the APTS's comments should not accorded any weight on this issue.³

Finally, KMB would remind APTS that the LPTV service currently

³ APTS also maintains that somehow public television service is to be equated with universal telephone service. APTS does this by misleadingly quoting the Communications Act. APTS states on page 9 of its comments that "And, in 1992, Congress again ruled that '[I]t is in the public interest for the Federal Government to ensure that *all citizens of the United States* have access to public telecommunications services..." The APTS failed to quote the entire sentence, which continues to read as follows: "through all appropriate available telecommunications distribution technologies..." There is no absolute preference for public television versus a commercial television service found in this language or in any other statutory language. While KMB sympathizes with the plight of APTS translator service, APTS must face the same difficulties all licensees in the service face, and certainly are not a preferred service in the hierarchy of television services. Furthermore, the perfect distribution service to bring public television broadcasting to all american sexists today. it is the Internet. With video streaming technology developing at a rapid pace, it is almost ludicrous for American taxpayer s to have to fund billions of dollars of DTV construction for a network whose programming should and will be shown on the Internet in the very near future. Certainly, with the available distribution technology at the present time which would easily satisfy statutory requirements on this issue, this is no reason to block the creation of the Class A television service.

consists of the highest percentage of minority ownership in any broadcast service.⁴ Since the Declaration of Purpose for the existence of public television contained in its statutory mandate as found in Section 390 includes the objective to increase public telecommunications services available to and operated by and owned by minorities, and women, it is ironic that APTS would oppose the creation of the Class A television service, which will preserve a significant number of female and minority-owned stations, at this time.

Consequently, KMB renews its request that the Commission to institute a rulemaking for the creation of Class A television licenses under the general requirements as proposed by the CBA.

Respectfully submitted,

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Dated: June 8, 1998

⁴ Informal estimates are that approximately 40% of LPTV licensees are held by minorities and/or women.

CERTIFICATE OF SERVICE

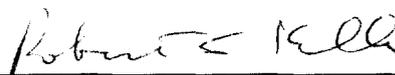
I, Robert E. Kelly, President of KM Broadcasting, Inc., do hereby certify that I have caused to be sent by the U.S. Postal Service on this 8th day of June, 1998, a copy of the foregoing "Reply Comments" to:

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