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Before the
FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Carriage of the Transmissions)
of Digital Television Broadcast Stations)
)
Amendments to Part 76)
of the Commission's Rules)

CS Docket No. 98-120

COMMENTS OF SINCLAIR BROADCAST GROUP, INC.

Sinclair Broadcast Group, Inc. ("Sinclair") hereby comments on the Commission's Notice of Proposed Rule Making ("NPRM") in the above-captioned proceeding. With the deadline for initiation of digital television ("DTV") service fast approaching for many broadcasters, Sinclair believes that the Commission needs to take the necessary steps to facilitate a successful transition to the DTV environment. To achieve this result, the Commission should apply its must carry rules in the DTV environment, requiring that cable operators with digital capability carry the full 6 MHz of digital programming offered by broadcasters during the transition. Requiring cable carriage of broadcasters' digital signals should not be the Commission's sole strategy for ensuring the economic viability of this new medium, however: the Commission should adopt a two-pronged approach and also impose the equipment standards necessary to assure that consumers can reliably receive broadcasters' DTV programming directly over-the-air.

Introduction

Sinclair, a publicly-traded company with thousands of shareholders and a multi-billion dollar market capitalization, is one of the nation's largest group television owners. Sinclair is the licensee of numerous commercial television stations, and programs many others pursuant to time brokerage agreements. Given the magnitude of its broadcast interests, Sinclair has a huge stake

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in the development of DTV.^{1/} Sinclair believes that the U.S. public deserves the best DTV service possible, and hopes to provide viewers with a quality of service that exceeds that offered in today's analog world. Sinclair is committed to the rapid introduction of this technology, and it has already invested millions of dollars to upgrade the facilities of its Baltimore station, WBFF(TV).^{2/} Sinclair is also the first television group to broadcast digital multicasting.^{3/}

Sinclair recognizes that the Commission has worked hard to fashion a regulatory and technical framework for DTV that will benefit both the broadcast industry and American consumers. Sinclair is concerned, however, that without further decisive action from the Commission, the transition to digital service could be a frustrating and ultimately unsuccessful process. In particular, there is substantial evidence that DTV reception by receivers with indoor antennas is likely to be problematic, and that, as a result, millions of Americans who currently rely on indoor antennas to receive service may be unable to reliably receive over-the-air service from DTV broadcasters. There is also evidence that even reception through outdoor antennas may not live up to the expectations of American consumers.^{4/}

^{1/} Sinclair has been an extremely active commenter before the FCC and Congress in matters relating to digital television. In particular, Sinclair was one of the first broadcasters to recognize that the low DTV power levels assigned to UHF stations would prevent these stations from providing adequate service to their core market areas, and was at the forefront of the effort that led the Commission to raise its DTV power ceiling for these UHF licensees.

^{2/} Sinclair estimates that, overall, it will incur costs of approximately \$300 million during the DTV transition.

^{3/} See PR Newswire, "Sinclair Debuts First Digital TV in Baltimore; First Ever Multi-Station, Multi-Program Digital Transmissions," March 2, 1998. See also *Broadcasting & Cable*, "Sinclair Tests Multichannel DTV," No. 25, Vol.128 p. 16, June 15, 1998.

^{4/} A study of DTV reception from two Washington, D.C. area broadcast stations earlier this year indicated significant problems with reception through both indoor and outdoor antennas. For the two stations, respectively, 44% and 29% of the outdoor antenna sites
(continued...)

Obviously, if consumers are unable to reliably receive broadcasters' digital signals, the Commission's desire to successfully transition broadcasters to the digital format will not be realized. Consumers concerned that they will be unable to enjoy high-quality DTV reception will be much less likely to purchase new digital television sets, and sluggish receiver sales will undoubtedly dampen overall investment in digital broadcast technology. These forces will combine to threaten the health and development of the digital broadcast medium into and beyond the DTV transition period.

The Commission has mandated broadcasters' transition to digital technology, and the Commission needs to put policies in place that will overcome the problems described above and make broadcasters' DTV signals available to as many people as possible during the transition period. Clearly, the Commission must confront the DTV over-the-air reception problem head-on, and adopt the equipment standards necessary to ensure that consumers can reliably receive over-the-air DTV service. Equipment standards alone, however, are not enough to ensure a successful transition to DTV. Given the general uncertainty regarding over-the-air DTV reception and the time that it would take for such standards to have an effect, it is absolutely critical to the competitive development of DTV that broadcasters' digital signals at least be available over cable systems; for this reason it is imperative that the Commission adopt the policies described below and require cable operators with digital capability to carry broadcasters' full 6 MHz digital signal on their systems both during and after the DTV transition period.

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produced unacceptable results. Reception through indoor antennas was significantly worse. For one station, the use of bow-tie/reflector antennas produced unacceptable results at 54% of all sites, and the use of pure bow-tie antennas yielded unacceptable results at approximately 70% of all sites. See "What's Wrong with an Antenna on Your Roof," *Broadcast Engineering*, August 1998

Discussion

I. **During the DTV Transition Period, The Commission Should Require Cable Operators with Digital Capability to Carry a Broadcaster's Full 6 MHz Digital Transmission**

The Commission's NPRM asks for comment on several different potential must carry requirements for the DTV transition period. Sinclair believes fundamentally that during the DTV transition, any cable operators already providing digital programming must carry the signals both from existing analog TV stations and from all operating DTV stations.⁵⁷ A DTV broadcaster's must carry rights should become effective as soon as it initiates its digital service. Moreover, this DTV must carry requirement should apply to all material transmitted over a broadcaster's entire 6 MHz block of digital spectrum -- thus, a broadcaster's "primary video" in the DTV context should consist of this entire 6 MHz transmission. Accordingly, if a DTV broadcaster chooses to multiplex its 6 MHz channel and transmit multiple programming streams, cable operators with digital capability should be required to carry all of these individual streams.⁶⁷

A. **The Commission's simulcasting requirement should not affect the DTV must carry obligation**

As the Commission notes in its NPRM, the Communications Act provides that a cable operator shall not be required to carry the signal of any local commercial TV station that "substantially duplicates" the signal of another local television station which is carried on the cable system. 47 U.S.C. §614(b)(5). Sinclair believes that during the DTV transition, in order

⁵⁷ Cable systems not carrying any digital programming should not be required to carry local broadcasters' DTV signals. As soon as a cable operator includes a single digital programming stream in its channel lineup, however, it should be required to accommodate all local broadcasters' 6 MHz DTV transmissions.

⁶⁷ While broadcasters and cable operators should be left to negotiate the terms of cable carriage of DTV subscription programming, cable operators should not be permitted to unreasonably deny carriage of such subscription material.

for two commercial broadcast signals to “substantially duplicate” one another, these signals must have both the same programming content and transmission format. Thus, a broadcaster that complies with the Commission’s DTV simulcasting requirements²⁷ and airs identical programming over its analog and digital stations by 2005 would not lose its DTV must carry rights at that time; because of the difference in the transmission formats between the two stations, the cable operator would be required to carry both the broadcaster’s analog and digital signals.

B. Cable operators should not be permitted to alter a broadcaster’s DTV signal

Sinclair believes not only that cable operators with digital capability must carry broadcasters’ full 6 MHz digital transmissions, but that the prohibition against “material degradation” of a local broadcaster’s signal precludes such cable operators from making any alteration to the digital format of the broadcast DTV signal. Such cable systems should be required to carry the DTV signal in its original over-the-air format. In this way, the public will have access to the full extent of that DTV station’s offerings, including its multiplexed programming streams and its full high definition capabilities. Sinclair does not believe that even a “*de minimis*” amount of degradation of a broadcaster’s signal should be permitted: a cable operator should be barred from adding or subtracting, increasing or diminishing, or compressing or decompressing a broadcaster’s digital programming stream. Broadcasters need such protection in the extraordinarily competitive video marketplace.

²⁷ Beginning on April 1, 2003, DTV licensees and permittees must simulcast at least 50% of the video programming transmitted on their analog channel. As of April 1, 2004, this simulcasting requirement will increase to 75%. Finally, beginning on April 1, 2005, there will be a 100% simulcasting requirement for these DTV licensees until their analog channels are terminated and returned to the Commission.

C. Broadcasters should have control over DTV channel positioning

As there was in 1992 at the time of the Cable Act, there is still a need to protect broadcasters from the potential anticompetitive conduct of cable operators, who have an incentive to place local broadcast stations on undesirable, higher cable channels. Accordingly, Sinclair believes that a broadcaster should have the right to select the channel on which its 6 MHz digital transmission will be carried by a cable operator.

D. Even where the one-third channel capacity limit is reached, the Commission should forbear from enforcing this restriction

Under the Communications Act, once one-third of a cable operator's capacity is comprised of local commercial broadcast programming, the cable operator has discretion over whether to carry any additional local commercial broadcast signals. 47 U.S.C. §614(b)(1)(B). In its NPRM, the Commission asks how this statutory one-third capacity limit should be implemented in the digital environment.⁸

Sinclair believes that, in most instances, carriage of all local commercial broadcast programming in a market, analog and digital, will not absorb more than one-third of the capacity of cable operators with digital capability.⁹ In those instances in which carriage of all analog and

⁸ In the NPRM, the Commission asks how it should measure a cable operator's channel capacity for the purposes of determining when the one-third capacity threshold is reached. NPRM at para. 60. For the purposes of these calculations, Sinclair believes that each 6 MHz block of spectrum, rather than each programming stream, should count as one channel.

⁹ Cable operators with some digital programming capability will typically have greater capacity than non-digital cable systems. Moreover, while the Commission indicates that approximately 65% of all cable operators carry only between 30 and 53 channels (NPRM at para. 45.), cable systems in larger markets with more broadcast stations generally have greater channel capacity. See, e.g., Television & Cable Factbook, Volume 66, Warren Publishing, Inc., 1998. (indicating that the Detroit cable system has 78 channels, the Houston cable system has 72 channels, the Los Angeles systems average almost 70

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DTV stations would occupy more than one-third of such cable systems' capacity, however, Sinclair believes that the Commission should waive or otherwise forbear from applying this limit, and require full carriage of these broadcast signals. Sinclair does not believe that it is possible to identify rational criteria for any "carriage priority" rules, and that, in particular, application of a "first-come, first-served" carriage rule would competitively disadvantage those broadcasters who are unable to initiate DTV operations early in the transition period due to financial limitations, tower siting difficulties, equipment procurement problems, or any other of the myriad factors which might delay a station's commencement of digital operations.

II. The Commission Should Impose Equipment Standards That Ensure That Consumers Will Be Able to Reliably Receive Over-the-Air DTV Broadcast Service

In order to ensure a successful transition to DTV, the Commission should do more than just apply its must carry rules to broadcasters' DTV signals. The Commission must also act aggressively to ensure that consumers will be able to reliably receive DTV programming over-the-air in all potential digital formats. To achieve this result, the Commission should impose appropriate equipment standards on product manufacturers and suppliers.^{10/}

First, the Commission should establish a minimum sensitivity standard for digital television receivers. In designing its DTV allotment table, the Commission assumed a receiver noise figure of just 7 dB, and the Commission should now require that all digital receivers meet

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channels, the New York system has 77 channels, the Philadelphia systems average over 80 channels, and the Washington, D.C. system has 68 channels).

^{10/} At the same time, the Commission should make clear that it will not permit manufacturers to make available digital receivers that only enjoy quality reception when operated over a cable system. The mass production of such "cable-only" DTV sets is clearly counter to the competitive health of the video industry in the United States and contrary to the interest of the American consumer.

this 7 dB standard. The Commission should also consider a requirement that receiver manufacturers incorporate into all television sets effective adaptive equalizers that counteract the effects of dynamic multipath and assure high-quality indoor reception.

The Commission should also require that manufacturers build input selectors or "A/B switches" into all new digital television receivers, allowing consumers to easily move back and forth between cable and broadcast television formats. The existing prohibition on the application of such a requirement to cable operators should not preclude the imposition of this requirement on receiver manufacturers.¹¹) In particular, such A/B switches will help ensure that consumers have access to ancillary and supplementary services, as well as any other programming stream or digital material that is not carried by a cable operator.

Sinclair also believes that the Commission should require that digital set-top boxes be designed to process all types of DTV formats. Finally, Sinclair believes that either the Commission should adopt stringent performance standards for indoor and rooftop antennas, or should at least strongly encourage the development of more effective antennas.

Conclusion

For Sinclair and other broadcasters, the transition to DTV will require an extraordinary capital investment. While it understands that some degree of business risk is inevitably associated with projects of this magnitude, Sinclair believes that broadcasters should have some reasonable assurance before beginning this process that their businesses will emerge from the DTV transition fundamentally intact. The Commission should take the steps described in these comments, thereby ensuring that consumers will be able to gain access to broadcasters' full 6 MHz digital transmission, either directly over-the-air or through cable systems with digital

¹¹ See NPRM at para. 88 (citing 47 U.S.C. §614(b)(4)(B)).

capability. Otherwise, the continued availability of free over-the-air television service will be jeopardized, and the public may miss out on the long-awaited benefits of DTV broadcasting.

Respectfully submitted,

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