

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations	)	MB Docket No. 03-185
	)	
Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions	)	GN Docket No. 12-268
	)	
Amendment of Part 15 of the Commission's Rules to Eliminate the Analog Tuner Requirement	)	ET Docket No. 14-175
	)	

**COMBINED REPLY COMMENTS OF DTV INNOVATORS, LLC, VINIONS, LLC,  
DNV SPECTRUM HOLDINGS, LLC, AND PRISM BROADCASTING NETWORK, INC.**

These combined Reply Comments are submitted by DTV Innovators, LLC; Vinions, LLC; DNV Spectrum Holdings, LLC; and, Prism Broadcasting Networks, Inc.; collectively referred to herein as ("the STATIONS"). While separate legal entities, Dr. Vincent Castelli collectively manages them. They represent forty-one (41) Class-A, LD, LP, and TV Translator licenses and construction permits in eleven (11) states. Of note is a cluster ("Atlanta cluster") of thirteen (13) of these licenses and permits in the Atlanta, GA TV market (DMA), which includes an auction eligible, channel-29, Class-A (WANN-CD); a channel-6 aural FM service (WTBS-LP); and, eleven (11) other low power digital, low power analog, and TV translator licenses.

**WHO WE AGREE WITH**

1. The STATIONS agrees with the LPTV Spectrum Rights Coalition (LSRC) that the FCC should expand the September 1, 2015 LPTV and TV Translator digital transition to a date post-auction, and one that will not interfere with the displacement rebuilding of the primary and Class-A stations, which are offered or sold in the auction.<sup>1</sup>

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<sup>1</sup> LPTV Spectrum Rights Coalition, 3rd LPTV NPRM Comments, pg. 3

2. The STATIONS agrees with the Advanced Television Broadcasting Alliance (ATBA) that, the "FCC cannot reasonably establish transition and construction deadlines until after the auction."<sup>2</sup> We additionally agree with ATBA that, "...we do not believe the Commission should decree, in advance of the auction, that it will not entertain more than one request for extension of a construction permit before it becomes subject to the tolling rule. There is no reason for the FCC to adopt such a policy in a vacuum of information."<sup>3</sup>
  
3. The STATIONS also agrees with the National Translator Association (NTA) that, "...the setting of any new transition date cannot safely or fairly be done until at least twelve months after the auction is completed."<sup>4</sup> We additionally agree with NTA that, "...the deadline for new construction permits should conform to that for the new digital construction deadline."<sup>5</sup>
  
4. The STATIONS agrees with LSRC that, "...the FCC should research the potential costs of a forced LPTV and TV translator facility "double-build."<sup>6</sup> Considering the extensive license holdings of the STATIONS, and, the potential displacements and subsequent unfunded channel relocations, having the FCC study these costs industry-wide prior to the auction is warranted.
  
5. The STATIONS agrees with the FCC, and many submitted Comments, that channel sharing should be voluntary. We further agree with ATBA that, "...the FCC should not grant dispensations, preferences, waivers or any other advantages of any kind to channel sharing stations that are not available equally to all stations, or apply any restrictions or limitations of any kind on non-sharing stations that do not also apply to sharing stations."<sup>7</sup>
  
6. The STATIONS agrees with LSRC about Digital Replacement Translators (DRT), that, "...if the DRT's are intended to provide the primaries with new channels, or to extend the

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<sup>2</sup> Advanced Television Broadcasting Alliance 3rd LPTV NPRM Comments, pg. 4

<sup>3</sup> Advanced Television Broadcasting Alliance 3rd LPTV NPRM Comments, pg. 4

<sup>4</sup> National Translator Association 3rd LPTV NPRM Comments, pg. 5

<sup>5</sup> National Translator Association 3rd LPTV NPRM Comments, pg. 6

<sup>6</sup> LPTV Spectrum Rights Coalition, 3rd LPTV NPRM Comments, pg. 7

<sup>7</sup> Advanced Television Broadcasting Alliance 3rd LPTV NPRM Comments, pg. 5

licensed contour of the station, then the Coalition is opposed. This will be especially hard to do on the "rim" of the contour. This is a region in many DMA where LPTV have found spectrum to use for their stations."<sup>8</sup> For the STATIONS, especially in the Atlanta DMA, where it has numerous licenses, some of which are located on the rim of the DMA, as well as the core, the excessive or misuse of DRT's would greatly reduced the effectiveness of the clustered LPTV build-out.

7. The STATIONS agrees with LSRC that, "The FCC needs to conduct a mock (trial) LPTV and TV Translator Repacking Optimization now, before the Auction, to see what the potential impacts are."<sup>9</sup> For the STATIONS, this is one of the most important pro-active initiatives the FCC can do for LPTV, since as LSRC further states, "This is especially true since the Video Division cannot show any original research it has done about the impacts of LPTV from the incentive auction process."<sup>10</sup>
  
8. We further agree with LSRC that, "The FCC has not conducted any type of economic analysis of the risk and benefits of including LPTV in the auction. It has however, stated clearly in the 2012 Incentive Auction NPRM, that it has the authority to include LPTV in the auction, but does not see any economic or practical benefit of including LPTV in the auction. So how can the FCC make that statement and not be required to back it up with economic analysis?"<sup>11</sup> We also agree with LSRC that, "The FCC should conduct a study of the future of LPTV and TV translator industry."<sup>12</sup>
  
9. The STATIONS, as one of a channel-6 FM radio aural services stations (WTBS-LP, Atlanta, GA), agrees with LSRC that, the "FCC should approve operations of analog radio services by digital LPTV stations with the Video Division consistent with current operating rules."<sup>13</sup> The STATIONS also agrees with LSRC that, "We urge the Commission to literally put the channel-6 aural services to the back of the repacking line so that they may continue to

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<sup>8</sup> LPTV Spectrum Rights Coalition, 3rd LPTV NPRM Comments, pg. 11

<sup>9</sup> LPTV Spectrum Rights Coalition, 3rd LPTV NPRM Comments, pg. 8

<sup>10</sup> LPTV Spectrum Rights Coalition, 3rd LPTV NPRM Comments, pg. 8

<sup>11</sup> LPTV Spectrum Rights Coalition, 3rd LPTV NPRM Comments, pg. 9

<sup>12</sup> LPTV Spectrum Rights Coalition, 3rd LPTV NPRM Comments, pg. 9

<sup>13</sup> LPTV Spectrum Rights Coalition, 3rd LPTV NPRM Comments, pg. 12

*provide their valuable services as long as possible.*"<sup>14</sup> For the STATIONS, this is especially important since it currently airs La Mega Mundail, Atlanta's only full-time Spanish-Tropical formatted radio station catering to the Greater Atlanta Hispanic community. The target demographic of the station is Hispanic adults, ages 18-49, which focuses on second and third generation Latinos. By waiting as long as we can to convert to digital, we will both continue to serve this audience without interruption, and can have the engineers and manufacturing vendors create a satisfactory digital transmission solution for the specialized transmission service which a digital channel-6 operation providing an aural service will need, and which is acceptable to the FCC.

10. The STATIONS agrees with Island Broadcasting, Inc. ("ISLAND"), and with Linley Gumm and Charles Rhodes ("G&R"), that; *"In sum, two independent observers, G&R and Island, using adequate test equipment and 27 different manufacturers' TV receivers, have found that DTV stations will operate normally when combined with an ancillary FM signal before entering a shared transmitting antenna if the FM ERP is at least 7db below the DTV ERP."*<sup>15</sup>
  
11. The STATIONS also agrees with Venture Technologies Group, Inc. ("VTG") that, *"...Section 74.790(i) of the Commission's Rules plainly allows for digital LPTV stations to offer "services of any nature, consistent with the public interest, convenience, and necessity, on an ancillary or supplementary basis" consistent with Rule 73.624(c). In turn, Rule 73.624(c) states that "[t]he kinds of services that may be provided include, but are not limited to computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, audio signals, subscription video, and any other services that do not derogate DTV broadcast stations' obligations under [Rule 73.624(b)]." Here, the proposed FM radio service qualifies as an "audio signal" or, alternatively, as a service that does "not derogate DTV broadcast stations' obligations under [73.624(b)]."*<sup>16</sup>
  
12. The STATIONS further agrees with VTG that, *"The radio service is also "consistent with the technology or method designated by the Commission for the provision of advanced television services." Notably, digital LPTV stations will continue to transmit an over-the-air*

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<sup>14</sup> LPTV Spectrum Rights Coalition, 3rd LPTV NPRM Comments, pg. 13

<sup>15</sup> Island Broadcasting & Richard Bogner, 3rd LPTV NPRM Comments, pg. 3

<sup>16</sup> Venture Technologies Group, LLC, 3rd LPTV NPRM Comments, pg. 4

*video program signal when offering the FM radio service. As described above, the FM radio service will not derogate co-channel digital operation. In the 1997 DTV Order, the Commission stated that “giving broadcasters flexibility to offer whatever ancillary and supplementary services they choose . . . should encourage entrepreneurship and innovation.”<sup>17</sup>*

13. The STATIONS also supports the NPRM's proposal that if the operation of the LPTV station causes any actual interference to the transmission of any authorized FM broadcast station; the LPTV station would be required to eliminate the interference or immediately suspend its operations.
  
14. The STATIONS agrees additionally with VTG that, “*...the NPRM's proposed prohibition on an “overlap between the 100 dBu interfering contour of the channel 6 LPTV station and the 60 dBu protected contour of [an] NCE FM station” is unnecessary. Channel 6 television stations have operated an aural carrier at 87.7 MHz for decades without causing interference to NCE FM stations, and VTG does not anticipate interference to arise from their operation in the future.*”<sup>18</sup> The STATIONS has also experienced no interference problems with its' operations.
  
15. The STATIONS agrees with VTG that, “*...the FCC should abstain from foisting rules such as requiring the FM radio service to “file an application for a construction permit and license to operate” and that the “channels be allotted through rulemaking.” LPTV stations are already licensed to operate by the FCC. Requiring separate authorizations and allotments would not only place inequitable burdens on the FM radio service that are not placed on analogous FM radio multicasting stations, it would deter LPTV stations from pursuing the beneficial FM radio-type service. In addition, as the FM radio-type service will be located 87.76 MHz, applying a rule requiring stations to be located at “88.1 MHz through 107.9 MHz” does not make practical sense.*”<sup>19</sup>

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<sup>17</sup> Venture Technologies Group, LLC, 3rd LPTV NPRM Comments, pg. 5

<sup>18</sup> Venture Technologies Group, LLC, 3rd LPTV NPRM Comments, pg. 5

<sup>19</sup> Venture Technologies Group, LLC, 3rd LPTV NPRM Comments, pg. 7

16. The STATIONS agrees with Signal Above, LLC ("SIGNAL") that, "...any ancillary analog FM radio-type operation should not be subject to FM rules. The proposed service should be permitted subject only to the technical parameters that may be adopted in this rulemaking—specifically that the use not cause interference or interfere with reception of the Channel 6 digital signal."<sup>20</sup>
17. The STATIONS further agrees with SIGNAL that, "Analog FM Radio-Type Service on an Ancillary or Supplementary Basis, Should Not Be Subject to a 5% Fee." PRISM also agrees with SIGNAL that, "The analog-type ancillary radio service proposed does not fall within the statutory definition of a feeable service. Therefore, the 5% fee should not apply."<sup>21</sup>
18. The STATIONS agree with Educational Media Foundation ("EMF") that, "...EMF does not believe that an analog audio service provided by a Channel 6 LPTV station needs to be separately licensed, or otherwise approved in advance by the Commission."<sup>22</sup>
19. The STATIONS further agree with EMF that, "... to allow LPTV stations operating on Channel 6 to transmit a separate analog audio service to provide an FM radio service to the residents of their service areas provided that such services do not interfere with established FM NCE operations..."<sup>23</sup>

### **WHO WE DISAGREE WITH**

1. The STATIONS disagrees with National Public Radio, Inc. ("NPR") that, "...a proposal to authorize LPTV stations to utilize the 82-88 MHz spectrum to offer analog FM radio services is flawed in numerous respects."<sup>24</sup> NPR fails to accept the more than two decades of operating practice of LPTV licensees being able to technically offer this service, and that it is within the current rules as an "aural service". NPR further attempts to misguide the Commission by saying that by including the channel 6 issue within this NPRM, "...it is unrelated to the stated purpose of this proceeding – to facilitate the final conversion of LPTV

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<sup>20</sup> Signal Above, LLC, 3rd LPTV NPRM Comments, pg. 7

<sup>21</sup> Signal Above, LLC, 3rd LPTV NPRM Comments, pg. 8

<sup>22</sup> Educational Media Foundation, 3rd LPTV NPRM Comments, pg. 3

<sup>23</sup> Educational Media Foundation, 3rd LPTV NPRM Comments, pg. 3

<sup>24</sup> National Public Radio, 3rd LPTV NPRM Comments, pg. 3

*and TV translators to digital service."*<sup>25</sup>

2. NPR fails to understand the simple fact that a digital channel 6 is technically capable of providing an aural service, and that this is within the current DTV rules for LPTV. NPR continues to try to confuse the Commission by stating that, *"...it is contrary to the Commission's broader DTV policy objective of an "expedited and successful transition for all digital services, so that the public will be able to enjoy the benefits of digital broadcast television technology."*<sup>26</sup> NPR's thinking is stuck in pre-DTV transition mode, and again does not acknowledge that any type of non-interfering aural service is allowed within the current LPTV rules, and that these current services are utilized by multi-cultural entrepreneurs for multi-cultural audiences all over the country, so much so that, LSRC estimates that the channel 6 services reach as many as 60 million multi-cultural listeners across the country.
  
3. NPR then attempts to again to attack the Commission's basic premise of including the channel 6 issue within the NPRM, *"...it is premature and potentially irrelevant proposal because the Commission cannot know how much of the 82-88 MHz spectrum will be utilized by full power television stations, TV translator stations, and LPTV stations desirous of offering DTV services until after the broadcast television spectrum auction and repacking process."*<sup>27</sup>
  
4. The point NPR is trying to make simply does not make sense. Existing full power and Class-A channel-6 stations are not allowed to move during the post auction repacking. And the FCC does not have authority to force a full power or Class-A to move to a channel 6. The only moves to a channel 6 which will be allowed are a voluntary channel modification by a displaced full power or Class-A if they do not accept their displacement channel. And engineering must prove that a move is needed to provide a better contour for population coverage to replicate their former displaced channel. These will be few if any in practice. So the current population of channel 6 incumbents, LPTV, translator, full power, and Class-A should stay relatively the same.

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<sup>25</sup> National Public Radio, 3rd LPTV NPRM Comments, pg. 3

<sup>26</sup> National Public Radio, 3rd LPTV NPRM Comments, pg. 3

<sup>27</sup> National Public Radio, 3rd LPTV NPRM Comments, pg. 7

## IN SUMMARY

The STATIONS is a substantial stakeholder of LPTV licenses, provides valuable community programming services to multi-cultural audiences using innovative aural services, and is concerned about the potential impacts from the Incentive Auction displacement repacking. It supports Comments to delay the LPTV and TV translator analog-to-digital conversion process, and the new digital construction permits to a time post auction, and after the effects of the full power and Class-A repacking are known. The STATIONS supports the continuation of the channel 6 aural services when they convert to digital operations, as these are valuable multi-cultural services currently serving as many as 60 million listeners, and are provided for and allowed with the current LPTV rules. The STATIONS disagrees with NPR's attempts to confuse the Commission about the reasons for why channel 6 operations should be in existence, and how they should be governed.

Respectfully submitted

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Dr. Vincent Castelli