

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Carriage of the Transmissions) CS Docket No. 98-120
of Digital Television Broadcast Stations)
)
Amendments to Part 76)
of the Commission's Rules)

REPLY COMMENTS OF MARANATHA BROADCASTING COMPANY, INC.

Maranatha Broadcasting Company, Inc. ("MBC"), licensee of independent television broadcast station WFMZ-TV, Allentown, Pennsylvania (and holder of a construction permit for WFMZ-DT, Channel 46, Allentown), through counsel and pursuant to Section 1.415(c) of the Rules, hereby submits these brief Reply Comments concerning the FCC's *Notice of Proposed Rule Making*, FCC 98-153, released July 10, 1998 (the "NPRM"), concerning the carriage of digital television broadcast signals by cable television systems.

These Reply Comments are directed to only a few of the 100 formal comments (and numerous letters) filed in this proceeding. The case for the FCC's legal authority to adopt must-carry rules for broadcast DTV signals -- indeed, the Congressional mandate to assure cable carriage of broadcast DTV signals -- and the minimal impact on cable television systems is well made in the Comments of the National Association of Broadcasters and other broadcast parties and no reiteration of those arguments is necessary here. Instead, these Reply Comments will focus on the claim by some that requiring cable operators to carry broadcasters' DTV signals will somehow injure the cause of "diversity." Notwithstanding the appeal of the "diversity" label, and the value of diversity as an objective, the "diversity" argument against must-carry reflects both a self-serving definition of the

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term and a selfish, short-sighted view of diversity which threatens the broader diversity promised by digital television broadcasting.

The Comments of the Pennsylvania Cable Network (“PCN”), although they do not utilize the “diversity” term, are illustrative of both the claim that public interest programming is threatened by mandatory carriage of DTV signals and the inherent weaknesses of that argument. PCN describes itself as “a not-for-profit service of Pennsylvania cable television companies.” *PCN Comments*, p. 1 Thus, it owes its existence to the fact that cable television companies are multi-channel program providers, with the technical capacity to offer, in addition to dozens of channels of entertainment and sports program, a channel devoted to public affairs and public events.

Television broadcasters, on the other hand, have heretofore been limited to the delivery of a single channel, within which they must fulfill all of the public interest obligations imposed on them by statute, the FCC’s rules and regulations, and the public’s expectations. DTV opens up the possibility that broadcasters may, on a limited scale, begin to compete as multi-channel program providers in a multi-channel environment with cable companies, satellite-to-home broadcasters, and “wireless cable: (MMDS systems).

PCN suggests, however, unless the cable industry is permitted to use its bottle-neck control over access to the two-thirds of households that subscribe to cable television to exclude broadcasters’ multi-channel and other DTV program offerings, its public affairs programming will somehow be threatened. *PCN Comments*, p. 7. One response to this claim is that PCN’s carriage by Pennsylvania cable companies is no more hostage to mandatory retransmissions of broadcasters’ DTV signals than it is to the cable industry’s inexhaustible appetite for multiple channels of stock car races, multiple home shopping channels, multiple cartoon networks, and multiple libraries of old movies. Another

response is that, at its core, PCN's argument is a self-serving, content-based (and, therefore, constitutionally illegitimate) claim that its programming is superior to and must be preserved at the expense of the potential diversity available as broadcasters transition to DTV.

As pointed out in MBC's initial comments, WFMZ-TV broadcasts 38 live local newscasts each week. *MBC Comments*, p. 2. To meet the distinct needs of its audience in Berks County, several of WFMZ-TV's newscasts originate from Reading, Pennsylvania, and are editorially-targeted to residents of Berks County, with the remainder of WFMZ-TV's newscasts focusing on news of particular interest to its community of license, the Lehigh Valley, and Philadelphia and its suburbs. The Comments of the National Association of Broadcasters offer a glimpse of the additional diversity and breadth of service potentially available through digital broadcasting:

There . . . is flexibility with the digital signal to dynamically switch between one channel and several channels, even within one discrete program. Under a multi-cast scenario, for example, there can be one unified newscast which then splits into four "zoned" channels for separate reports on different regional areas included [sic] the broadcaster's overall service area.

NAB Comments, p. 38.¹

The potential "diversity" promised by broadcast digital television is, therefore, different from but by no means inferior to any diversity that accrues from the distribution of PCN's programming or the programming of similar entities. Ultimately, the continued distribution of PCN's programming is entirely in the hands of the cable television industry and will not be determined by federal regulators in this proceeding. The availability of more and different broadcast television program services to

¹ The specific point made by NAB in this connection, and by other broadcasters, is that in this situation "there would not be one 'primary' or 'main' program, since each would be of equal importance; therefore, cable operators must be obliged, under any must-carry rule applicable to digital broadcast signals, to carry the entire broadcast DTV signal, including any multiplexed program streams. *See also*, Comments of Corporation for General Trade, pp. 13-14.

cable subscribers, on the other hand, is primarily the responsibility of the FCC, as the cable industry has made it clear that it will not carry all broadcast DTV signals unless it is compelled to do so. Congress has directed the FCC to assure that cable systems do not use their bottleneck control over access to cable subscribers to suppress competition and the viewpoints of television broadcasters.

In the longer term, FCC implementation of rules requiring the immediate and unconditional carriage of broadcast stations' DTV signals will promote even greater diversity. As emphasized in the comments of the Association of America's Public Television Stations, the Public Broadcasting Service and the Corporation for Public Broadcasting ("AAPTS Comments"), many stations, including a majority of public television stations, will postpone the conversion to digital television to the latter part of the transition period. Those later-transitioning stations, as AAPTS notes, will be "highly dependent on the early success of the digital transition," because those stations will be unable to find the financial resources necessary for the transition if digital broadcasting falters in its early stages. *AAPTS Comments*, p. 10. Thus, if it is to maximize the benefits of the transition, including the availability of DTV programming from the broadest possible range of sources, the FCC must act now to assure that cable subscribers' access to broadcast stations' digital services is not choked off by cable systems in the infancy of DTV broadcasting.

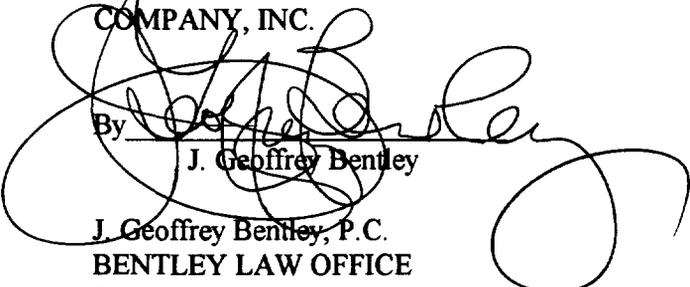
If the "burden" of mandatory carriage of digital broadcast signals results in stimulating or accelerating the pace of rebuilding outmoded cable systems, *see NAB Comments*, pp. 30-35, it will benefit PCN and kindred cable channels as well as the overall public interest.

For the foregoing reasons, the FCC should adopt rules requiring immediate cable carriage of the digital signals of television broadcast stations, *in their entirety* (except for ancillary and subscription services), within the existing statutory and regulatory framework. Any other option will

only result in a truncated digital television broadcasting service, to the detriment of the dissemination of viewpoints from the widest possible range of sources.

Respectfully submitted,

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CERTIFICATE OF SERVICE

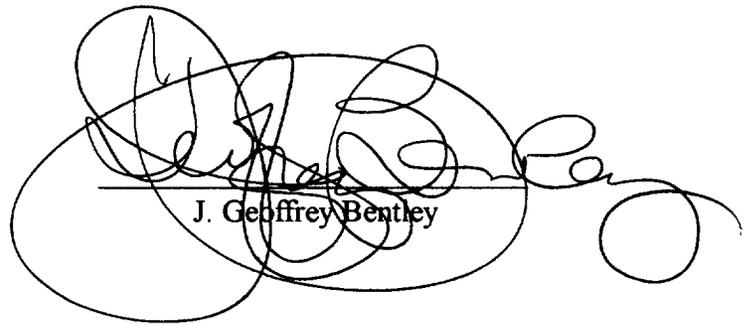
I hereby certify that, this 22d day of December 1998, I caused a copy of the foregoing Reply Comments of Maranatha Broadcasting Company, Inc., to be served, by first-class United States mail, postage pre-paid, on the following persons:

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