

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

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Establishment of a Class A ) MM Docket No. 00-10  
Television Service ) MM Docket No. ~~99-292~~  
 ) RM-9260

To: The Commission

**COMMENTS OF MEDIA-COM TELEVISION, INC.**

Media-Com Television, Inc. ("Media-Com"), pursuant to Section 1.415 of the Commission's rules, and the Commission's Order and Notice of Proposed Rule Making, FCC 00-16, released January 13, 2000, hereby submits its comments in the above-captioned proceeding to implement the Community Broadcasters Protection Act of 1999 ("CBPA").

Congress acknowledges in the CBPA that, "It is in the public interest to promote diversity in television programming". We believe that is why Congress passed the CBPA, to promote diversity in television programming by granting Class A licenses which will protect and preserve certain LPTV broadcasters who have been providing their communities with local programming not available from other television broadcasters.

We therefore respectfully submit that the FCC should interpret the CBPA to permit the maximum number of eligible stations to convert to Class A status. Accordingly, we respectfully submit the following comments to the NPRM.

A. Market Area Definition: The definition of Market Area which the Commission proposes to use, i.e. the protected service area of Class A stations, is too restrictive to enable Class A stations to fully serve their communities. For example the location of a Class A station's Main Studio could be in compliance with Part 73 Main Studio rules and, at the same time, be located outside the Class A station's protected service area. That would mean that all the

programs which are produced at the station's Main Studio, which are certainly locally produced programs, would not be considered local programs in regards to the Class A station's local programming requirement.

We believe that if Congress had intended for the protected service area of Class A stations to be the area in which their local programs had to be produced in order to qualify towards their local programming requirement, Congress would have stated it in specific technical terms rather than using the term "Market Area" which has a broader meaning.

Also, just as is the case with full-power stations, significant populations are served both within the Grade B coverage area of Class A stations and just outside the Grade B coverage areas of Class A stations when those Class A stations are carried by cable systems that extend beyond their Grade B contour.

Therefore, using the protected service area as the definition of "Market Area" would function as a disincentive for Class A stations to provide local programming services to local populations which are outside their protected service areas.

For this reason we strongly believe that Congress's intent was to define "Market Area" in the broader sense of the term. We believe that the most appropriate definition for "Market Area" is the Nielsen Designated Market Area to which the station is licensed. A second definition could be the government's Metropolitan Statistical Area (MSA) to which the station is licensed. A third definition could be the area in which Class A stations can locate their Main Studio. And finally, the most restrictive definition the Commission should consider would be to define "Market Area" as the Grade B contour of Class A stations.

**B. The Class A License Application Timetable:** We believe that Congress intended for

the CBPA to enable the maximum number of LPTV stations which qualify for Class A certification to be able to apply for Class A licenses, not the minimum. In order for the CBPA to protect the maximum number of stations the Commission should interpret (1)(C) of the CBPA so that it gives stations which have an interference problem ample time to resolve their problem by reengineering their facility or by applying for another channel in the event displacement is inevitable.

Here is the portion of (1)(C) of the CBPA, which we believe the Commission should interpret differently than it appears to be interpreting it in the NPRM.

“Application for and Award of Licenses- Consistent with the requirements set forth in paragraph (2)(A) of this subsection, a licensee may submit an application for class A designation under this paragraph within 30 days after final regulations are adopted under subparagraph (A) of this paragraph.” (quotes & underline added)

We believe that this section should be interpreted to allow, but not require, licensees to submit initial applications for Class A designation within 30 days after final regulations are adopted, and to continue to submit applications and amendments after this 30 day period if necessary to resolve interference problems.

We believe the interpretation we suggest is what Congress intended because it will allow many more Class A certified LPTV stations to apply for Class A licenses—especially those LPTV stations which must correct an interference problem before they can submit their Class A applications. Had Congress intended to allow the filing of Class A applications only during a finite 30-day period, we believe they would have used the word “must” or “shall” in lieu of the word “may”.

C. Full-Power Station Operating Rules Compliance Timetable: Section (2)(A) of the CBPA states that LPTV stations qualify for Class A licenses if they meet a variety of criteria including being in compliance with the Commission's operating rules for full-power television stations from and after the date of their application. Again, we presume that Congress intended for the CBPA to award Class A licenses to the maximum number of qualifying LPTV stations, not the minimum.

For that reason we believe that Congress, in Section (2)(B), went on to give the Commission great latitude in its interpretation of section (2)(A) if it deems that it would be in the public interest, convenience and necessity.

We respectfully submit that, in accordance with its Section (2)(B) authority, the Commission should find that the public interest, convenience and necessity does not require the initial group of Class A certified stations to commence compliance with the Commission's operating rules for full-power television stations from the date of filing their Class A applications. Rather, the Commission should establish a transition period as set forth below. Maximization will significantly delay, perhaps for years or more, the granting of many, possibly the majority, of Class A licenses to those stations which have submitted their Class A applications. We believe it is unfair and counter productive to require Class A applicants to allocate their already stressed resources to the significant additional labor and capital costs required to comply with full-power rules until their license is actually granted.

We believe that the initial group of LPTV stations which are qualified for Class A certification, should be granted a transition period of 12 months from the date their Class A license is granted, during which time they can complete the conversion process and become

compliant with the operating rules for full-power stations. And we believe that Congress has given the Commission the latitude to grant such a transition.

D. Cross Ownership Exemption: We believe that Congress made clear in the CBPA that it intended to exempt Class A licensees from the Part 73 cross-ownership rules. We believe this exemption should be transferable to subsequent owners of such facilities and we believe that this exemption should not prohibit Class A licensees from acquiring additional media facilities that would otherwise be approved. By permitting other media facilities to combine with Class A stations the Commission will be fostering a synergy that will enable those Class A facilities to better serve their communities with locally produced programming.

E. No Interference Requirement for DTV: Since Class A stations will be required to operate under the rules for full-power television stations we believe that Class A stations should be permitted to cause and be required to accept the same amount of de minimis interference to full-power DTV stations that the full-power DTV stations are permitted to cause, i.e. up to 2% de minimis interference. Interpreting “no interference” in this manner would enable significantly more Class A certified LPTV stations to proceed with their Class A application and it would prevent a significant number of Class A certified LPTV station displacements. We believe Congress granted the Commission the latitude to make this interpretation.

F. DTV Allotment Adjustments Due To Unforeseen Technical Problems: When such allotment adjustments would impinge on the service area of Class A stations they should only be permitted to enable a DTV station to replicate its NTSC coverage area and not for the purpose of obtaining a channel which has a greater capacity to be maximized. Also, the DTV station should be required to show that the modification can only be made in a manner that will affect the Class

A station and the Class A station should be able to show the Commission what options exist that would not impinge on the Class A station's service area. Should it ultimately be determined that the DTV modification requires displacement of the Class A station, the Class A station should be permitted to exchange channels with the DTV station provided it could meet the no interference rules on the exchanged channel.

G. Call Letter Suffix for Class A Stations: We believe the suffix for Class A stations should be "-TV". We believe that this would be consistent with other broadcast services. For example, the "-FM" suffix is used for all Class A, B and C FM radio stations even though they operate at significantly different power levels. We are also concerned that using another suffix such as "-LP" would confuse the public and would brand Class A stations as inferior to other television stations. This perception could significantly diminish the ability of Class A stations to serve their communities to their full potential.

H. Class A License Fees: We believe that the LPTV license fees should be continued for Class A stations because their power limitations will have remained the same as they were when they were licensed as LPTV stations.

I. Class A License Application Continuation: Class A stations provide important television programming service to millions of Americans in underserved and un-served communities. Therefore, the Class A application process should be continued beyond the initial application period referred to in the CBPA so that stations satisfying the three qualifications requirements during future 90-day periods can obtain Class A licenses. We believe that a Class A license is an incentive for LPTV stations to be more responsive to their communities of license and we believe that is a beneficial result.

This concludes our comments.

Respectfully submitted,

**MEDIA-COM TELEVISION, INC.**

By   
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