

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

In the Matter of)
)
Amendment of Section 76.51)
of the Commission's Rules)
to include Merced and)
Porterville, California in the)
Fresno-Visalia-Hanford-Clovis)
Television Market)

RECEIVED

FEB 07 2000

CS Docket No. 00-1

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Deputy Chief, Cable Services Bureau

COMMENTS

Paxson Communications License Company, LLC ("Paxson"), licensee of KPXF(TV), Porterville, California by its attorneys, hereby submits these Comments supporting the Commission's proposal to include Merced and Porterville, California, in the Fresno-Visalia-Hanford-Clovis television market ("Fresno-Visalia Market"). These two communities have long been an integral part of the Fresno-Visalia Market. It is now time for the Commission's rules to reflect this marketplace reality.

Section 76.51 of the Commission's Rules enumerates the top 100 television markets and certain designated communities within those markets.¹ Among other things, the rule's delineation of communities in each market helps to determine the extent to which a television station may assert network non-duplication and syndicated exclusivity rights to protect its investments in programming and promotion.² The Commission has defined a television market to include the name of more than one community where the evidence demonstrates that stations licensed to the named communities in

¹ 47 C.F.R. § 76.51.

² See 47 C.F.R. §§ 76.92, 76.151.

No. of Original rec'd 0+1
DATE

fact compete with stations licensed to other named communities.³ In this case, the FCC's Cable Services Bureau (the "Bureau") should revise Section 76.51 to include Merced and Porterville in the Fresno-Visalia Market to reflect the fact that the stations licensed to those communities compete with stations licensed to Fresno, Visalia, Hanford, and Clovis.

The City of Fresno, with a 1990 population of approximately 355,000, lies at the center of the Fresno-Visalia Market. About fifty miles north of Fresno (and about a sixty minute drive) is the community of Merced. Roughly seventy miles (and a seventy-five minute drive) in the opposite direction of Fresno is the town of Porterville.⁴ As noted by the petitioners, the agribusiness economy binds together the various communities that constitute the Fresno-Visalia Market.⁵

After reviewing actual television viewing patterns of viewers in this area, Nielsen Market Research has concluded that Merced and Porterville properly belong to the same television market as Fresno, Visalia, Hanford and Clovis, namely the Fresno-Visalia Designated Market Area.⁶ The Arbitron audience research organization similarly concluded that Merced and Porterville logically belong to the same television market – the Fresno-Visalia (Hanford) Area of Dominant Influence.⁷ Moreover, television stations licensed to Merced and Porterville are afforded the same geographic area in which they may exercise mandatory cable and satellite carriage rights as stations licensed to other communities in the Fresno-Visalia Market.

³ Notice at ¶ 3.

⁴ The Bureau previously has concluded that communities separated by more than these distances can form the same television market. See, e.g., *Busse Broadcasting Corp.*, 11 FCC Rcd 6408, 6422-25 (1996) (granting television station's petition to add to its market communities located 65 to 100 miles from the station's community of license); *Pappas Telecasting Inc.*, 11 FCC Rcd 6102 (1996) (granting television station's petition to add Bakersfield to its market, where the community of license was located roughly 65 miles from Bakersfield).

⁵ See *id.* at ¶ 6, citing Petition at 5.

⁶ *1999 Broadcasting & Cable Yearbook* at B-181.

⁷ *Broadcasting & Cable Market Place 1992* at E-43.

The residents of Merced and Porterville are served by the same television stations as individuals residing in Fresno, Visalia, Hanford, and Clovis. As such, viewers throughout the market turn to KFSN-TV for ABC programming, KJEO(TV) for CBS programming, KSEE for NBC programming and so on. Significantly, viewers in the Fresno-Visalia Market receive WB programming from Merced station KNSO(TV), while obtaining PAXTV programming from Porterville station KPXF(TV). For many years, television stations throughout the Fresno-Visalia Market have acquired programming with the expectation that they would serve the market that has been defined consistently by Arbitron, Nielsen and actual viewing patterns of residents in the area. The Commission's rules should reflect these decisions.

Consequently, to reflect better marketplace realities, Paxson respectfully requests that the Bureau amend Section 76.51 to include Merced and Porterville in the Fresno-Visalia Market.

Respectfully submitted,

PAXSON COMMUNICATIONS LICENSE
COMPANY, LLC

By: 

John R. Feore, Jr.
Kevin P. Latek

DOW, LOHNES & ALBERTSON, PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036
(202) 776-2000

Its Attorneys

February 7, 2000