

Alexandra Kol

44 Melody Lane
Westbury, NY 11590
(516) 333-7651

ORIGINAL

EX PARTE OR LATE FILED

The Honorable William Kennard
Chairman
Federal Communications Commission
445 12th Street S.W.
Washington D.C. 20553

RECEIVED

APR 19 2000

FCC MAIL ROOM

March 24, 2000

**Re: Public Interest Obligations of TV Broadcast Licensees
MM Docket No. 99-360**

Dear Chairman Kennard:

I am writing as an individual who has been following the Public Interest Obligations debate closely on the Internet and who actively participated in the public comment process during the Gore Commission meetings.

It is only because of the Internet (and despite broadcast television) that I was able to learn about the spectrum debate in the first place and get access to government meetings, documents, speeches, and a diversity of viewpoints. This is not possible in a closed access environment.

Our "free" TV comes to us at a price, as information that is vital to our democracy is often missing entirely from our public airwaves. A good example is the Telecommunications Act itself, one of the most important bills of our time, which never made it to our television screens. Another is low power radio, which generated the greatest outpouring of community support in the FCC's history and which is currently under attack in Congress.

Despite the importance of this fierce debate to communities around the country, broadcast coverage of LPFM is nonexistent on both commercial and public television channels. Only on PEG cable channels can the television public be informed of this issue.

As we move towards online voting, we cannot have this type of information lobotomy on our digital airwaves if we are to have a democracy.

Policymakers must redefine the role of the public trustee so that the public sector can broadcast its own information on the DTV spectrum without an intermediary. It is paramount that every citizen be guaranteed free electronic access to all government, public, and community information available, and that our public trustees do not stand in the way.

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Such access can be accomplished easily and inexpensively (and very soon) by setting aside a public and government datacasting network on the digital TV broadcast spectrum as a core obligation of broadcasters. The bandwidth, technology and infrastructure are certainly there: "We can be slamming telephone books into your hard drive right now,"¹ boasted the president of Granite Broadcasting recently.

Broadcasters have announced that they are uniting to form their own national datacasting network to deliver one-way Internet content through the airwaves to computers. Targeted transmissions will also include videogames, music CDs, bestsellers, and every type of digital information decided by major media companies.

As the HDTV promise to Congress fades into the distance (as many had predicted from the start), both the government and the Internet community must closely scrutinize the new direction broadcasters are taking with datacasting.

Broadcasters will have sole discretion in deciding which multimedia webpages and video streaming content will get preferential, TV quality treatment and which will languish at standard modem speeds; which third parties will have access to this powerful delivery system (and at what price) and which will not. The dangers of an access-controlled Internet are obvious.

Three years ago, a well respected technology analyst, William Gurley, wrote an insightful article about datacasting (also called data broadcasting) foretelling how the broadcast industry would ultimately use the digital spectrum. He may have missed in his time estimate, but was correct in many other respects:

"Over the next 12 months, a new form of service will arise that will simultaneously upset the current market for Internet content, topple the current standards in the consumer electronics industry, save the storage industry from worst slump in years, and qualify the FCC's HDTV bandwidth grant as the greatest charity event in the history of the world. The technology that could cause such profound change goes by the name of "data broadcasting," and although it's been around for years, its time to shine has finally come.

"Who are the big winners? ...the biggest victor of all may be the spate of current television broadcasters who were granted free licenses of spectrum intended for HDTV. Recognizing the growing market for data broadcasting, these vendors will unquestionably reallocate this free gift, valued by some at over \$70 billion, toward more realistic and near-term uses like data broadcasting."²

This is precisely what is happening and why a new public interest standard must be defined. The ideal model is the Internet, which requires a minimum amount of regulation and guarantees a cornucopia of public interest content created by the public itself.

¹ Jim Davis, "Broadcasters to Send Data Over Digital TV Airwaves," <http://news.cnet.com/news/0-1006-200-1581932.html>, March 23, 2000

² William Gurley, "Data Broadcast: The New Frontier," http://www.news.com/Perspectives/wg/97/wg12_22_97a.html, December 22, 1977

Chairman William Kennard

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For the past year, the White House has been transmitting to the FCC my correspondence recommending that broadcasters set aside a public space for "a national community access network that is nurtured and cultivated to ensure quality participation by everyone: communities, individuals, government institutions, schools, libraries, and all other public entities."

This is a much needed service that is well within our reach, and I applaud the Administration for being so responsive to public input. Hopefully, the FCC will do the same.

Enclosed are copies of these letters along with the FCC's replies. Please consider them as part of my public comment in this proceeding.

Sincerely,



Alexandra Kol

Enclosures

cc: The Honorable Susan Ness
The Honorable Gloria Tristani
The Honorable Harold Furchtgott-Roth
The Honorable Michael Powell
Magalie Roman Salas, The Secretary, FCC
Roy Stewart, Chief, FCC Mass Media Bureau
President Clinton
Vice President Gore
The Honorable John McCain
The Honorable Tom Bliley
The Honorable John Dingell
The Honorable Edward Markey
The Honorable Billy Tauzin
The Honorable Conrad Burns
The Honorable Ernest Hollings

Alexandra Kol

44 Melody Lane
Westbury, NY 11590
(516) 333-7651

RECEIVED
APR 19 2000
FCC MAIL ROOM

President Clinton
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

September 14, 1999

Re: Public Interest Obligations of Digital TV Broadcasters

Dear President Clinton:

It has been nine months since the Gore Commission recommendations were presented to the White House. Since then, no government action has resulted from these or other recommendations submitted independently by the public.

In the meantime, the FCC has been most responsive to the demands of the broadcast industry to relax broadcast ownership rules, prompting a new wave of dangerous media consolidation. In the midst of the mergers and acquisitions, broadcasters are moving full speed ahead with their digital television and Internet plans which will link together a vast array of local and national media properties into a giant, proprietary broadband network – all on free public spectrum.

Where is the public in all of this?

Contrary to industry claims, a diversity of media outlets does not mean a diversity of voices. Not when the public is excluded. It is imperative that a significant public space be created on the digital TV spectrum to counteract this ominous concentration of information power, and that broadcasters fulfill their obligations to the public by setting aside spectrum capacity and funds for such a space.

I am most grateful to the White House for twice forwarding to the FCC my suggestions that a high-quality national community access network be built on the digital TV spectrum. However, the FCC has indicated it will not accept any public input at this time (see the two letters I received from the FCC) and will only start proceedings after it receives the Gore Commission report from the White House – and even then may or may not open up this debate to the public. This is unfortunate, as the FCC knows that the Gore Commission report was severely criticized by the public for caving in to the broadcast industry. The end result is that bureaucratic procedure is prevailing over the wishes of the public, allowing the broadcast industry to once again dominate this debate.

The public needs strong White House leadership on this issue before it is too late – perhaps something stronger than simply transmitting a report that was essentially rejected by the public.

Please consider presenting this issue prominently before the public for discussion and putting forth a “Digital Public Street” initiative: a wireless public network linking together communities, neighborhood and nonprofit organizations, schools, libraries, museums and government agencies on the DTV spectrum. Such a network, complete with interactive government capabilities, should be a basic service provided to all citizens when they turn on their digital TV sets or computers equipped with digital TV receivers.

President Clinton
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Communities throughout the country would be eager to support the White House in its efforts to create a digital network that truly serves the public instead of private interests. The Administration has the power and vision to pioneer such a network and leave a profound legacy.

Enclosed for your reference is my past correspondence to you which you forwarded to the FCC, along with the FCC's replies.

Sincerely,

A handwritten signature in cursive script that reads "Alexandra Kol".

Alexandra Kol

P.S. Please note my new address for any future correspondence.

Enclosures

cc: Vice President Gore
FCC Chairman William Kennard
FCC Commissioner Susan Ness
FCC Commissioner Gloria Tristani
FCC Commissioner Michael Powell
FCC Commissioner Harold Furchtgott-Roth
Roy Stewart, Chief of Mass Media Bureau, FCC



Federal Communications Commission
Washington, D.C. 20554

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APR 19 2000

FCC MAIL ROOM

Alexandra Kol
44 Melody Lane
Westbury, NY 11590

Dear Ms. Kol:

Thank you for your letter, which was forwarded to us by the White House, regarding the public interest obligations of digital television ("DTV") broadcasters. You suggest the creation of a high-quality national community access network on the DTV spectrum.

With respect to the issue of the public interest obligations of digital broadcasters, in its *Fifth Report and Order* in the digital television proceeding, the Commission recognized that in the digital age broadcasters will remain trustees of the public's airwaves. The Commission also recognized that the dynamic and flexible nature of digital technology creates the possibility of new and creative ways for broadcasters to serve the public interest. Various parties have proposed ideas for defining and implementing such public interest requirements. Some contend that TV broadcasters' public interest obligations in the digital world should be clearly defined and commensurate with the new opportunities provided by the digital channel broadcasters have received. Others believe that our current public interest obligations should not change.

As you are aware, President Clinton established an Advisory Committee on the Public Interest Obligations of Digital Television Broadcasters in 1997. In December of last year, the Advisory Committee issued a report to the Vice President, containing ten separate recommendations concerning the public interest obligations of DTV broadcasters. The Commission adopted a *Notice of Inquiry* to consider these recommendations, and those of others, at its open meeting on December 15, 1999. The *Notice* solicits public comment on these important issues. We will include your letter in the record of this proceeding.

Thank you for your interest in the Commission's proceedings.

Sincerely,

Roy J. Stewart
Chief, Mass Media Bureau

Alexandra Kol

50 Windsor Place
Brooklyn, NY 11215
(718) 768-6257

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APR 19 2000

FCC MAIL ROOM

Senator John McCain
241 Russell Senate Office Building
Washington DC 20510

March 6, 1999

Re: Public Interest Obligations of Digital TV Broadcasters

Dear Senator McCain:

The Gore Commission recently released its report recommending new public interest obligations for the broadcast industry in the digital age. The issue now rests with Congress and the FCC.

No doubt you are being lobbied by broadcasters to minimize those obligations, by public interest groups to increase them, and by the PBS/CPB establishment to get more money.

Somewhere out there is the public. Please consider what the rest of us have to say on this issue. The White House is apparently listening (see attached letter from the FCC) and I hope you will too.

Enclosed are my comments to the Gore Commission and subsequently, to President Clinton and Vice President Gore. They include a videotape of a TV show I created to inform my community about this issue. It was shown at Manhattan Neighborhood Network, a public access station in New York City and features Gore Commission member Gigi Sohn. (Imagine that this is a citizen's videogram sent via the digital TV broadcast spectrum.)

There is no question that new obligations are needed. The digital format is vastly different from analog and offers far more opportunities than those defined by the current public interest standard. Broadcasters received free licenses for a staggering chunk of publicly owned bandwidth and did so by misinforming the public (see the NAB "TV Tax" commercial on videotape). The public has no such access to talk back.

These new obligations, however, must be in synch with the nature of digital media or they will collapse under the First Amendment, leaving the public with nothing.

Voluntary codes of conduct are meaningless and things like ascertainment and government mandates for specific programming are not only difficult to keep track of on a digital network, but would spill over to the Internet. Video e-mail and multimedia webpages would qualify as digital television and be subject to government regulation.

Then what should these new obligations be? How can the public be guaranteed a voice, that the First Amendment rights of *all* digital communicators will be protected, and that the transition to digital will not be delayed with burdensome content regulation?

A portion of the broadcasters' digital bandwidth should be set aside to the public in the form of a public space, modeled after the Internet, where everyone is a programmer of information and public interest content is self-generated. As I mentioned in my comments, this space would be *a national community access network that is nurtured and cultivated to ensure quality participation by everyone: communities, individuals, government institutions, schools, libraries, and all other public entities.*

The beginnings of such a network already exist, but in low-bandwidth form. For example, government agencies are putting detailed documents and transcripts of proceedings on the Internet, giving the public unprecedented access to information once available only to insiders and wealthy lobbyists. Neighborhoods across America are putting up websites filled with rich civic and cultural information, including video tours and political speeches. This type of programming belongs in high-bandwidth form on our *public* digital spectrum.

I cannot stress the value of the NTIA's work in putting the transcripts of the Gore Commission meetings on the Internet and duplicating and distributing public comments to committee members. I would not have been able to participate otherwise. On digital television, citizens should be able to teleparticipate in open meetings from remote locations through neighborhood access centers.

Today, many people have neither access to the Internet nor to a media space for disseminating their views, and are excluded from the democratic process.

Therefore, government, cultural, library and other public access services must be a basic part of digital TV – but programmed by the institutions and communities themselves. Direct dialogue and information are crucial in a push-button democracy and the concept of a public trustee is dangerously incongruous with the self-broadcasting nature of digital media. Perhaps this concept should be reassessed and replaced with one of access.

Congress and the FCC should also examine the qualifications of a troubled and *digitally inexperienced broadcast industry* to lead us into the digital age. Audiences are abandoning broadcasters' programming and yet, are expected to buy costly new TVs to experience that same vision in digital form. This is not happening. It is important to note that the Internet (a public access network) did not take off until the public came onboard with its own applications.

A well-designed public space will speed up the digital transition considerably with fresh new voices and innovation, and must be part of the infrastructure, not an afterthought in response to public outcry. While the Gore Commission did propose a separate educational and public interest channel with some community access, it would not be the powerful *networked* access that would make a difference. This channel would also happen too late, only after the analog spectrum is returned. It is widely believed that the analog spectrum will remain indefinitely as is.

Please consider that the digital world is a map of the physical world, and a new public policy must reflect that. When we step out of our homes, the first place or "portal" we enter is a public street.

No such street exists on digital television. Perhaps it is time to start building one.

Sincerely,



Alexandra Kol

Enclosures

cc: President Clinton
Vice President Gore
Rep. Billy Tauzin
Senator Ernest Hollings
Rep. Edward Markey
Chairman William Kennard
Commissioner Susan Ness
Commissioner Gloria Tristani
Commissioner Michael Powell
Commissioner Harold Furchtgott-Roth
Roy Stewart, Chief of Mass Media Bureau, FCC



Federal Communications Commission
Washington, D.C. 20554

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CN-9902484

Ms. Alexandra Kol
50 Windsor Place
Brooklyn, New York 11215

Dear Ms. Kol:

The White House has asked the Federal Communications Commission to respond to the correspondence you sent President Clinton, which included copies of letters to Senator John McCain and to me, asking that a portion of broadcasters' digital television spectrum be set aside to create a national community access network to allow participation by communities, individuals, government institutions, schools, libraries, and other public entities.

As we earlier wrote you, the issue of the public interest obligations of digital broadcasters is an important issue, on which there is considerable debate. The Advisory Committee on Public Interest Obligations of Digital Broadcasters (Gore Commission) issued its recommendations on December 18, 1998. After the report is transmitted to the Commission and the Commission has had a chance to study the recommendations, it will decide, in consultation with Congress, what steps should be taken. It may decide to issue a Notice of Inquiry to invite public comments on this issue and gather additional information, and in that event, you may wish to submit your comments and views.

Thank you for your interest in this matter.

Sincerely,

Charles W. Feyer
for Roy J. Stewart
Roy J. Stewart
Chief, Mass Media Bureau

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APR 19 2000

FCC MAIL ROOM

Alexandra Kol

50 Windsor Place
Brooklyn, NY 11215
(718) 768-6257

Vice President Albert Gore
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

December 12, 1998

RECEIVED
APR 19 2000
FCC MAIL ROOM

Re: Presidential Advisory Committee on Public Interest Obligations of Digital TV Broadcasters

Dear Vice President Gore:

In a few days, the Gore Commission will be presenting you with a report recommending a new public policy for television in the 21st Century.

Unfortunately, due to considerable pressure from the broadcast industry and a strong desire by the committee to reach a consensus, the recommendations have been severely diluted and do not reflect the will of the people. Nor do they reflect the extraordinary potential for using the digital TV broadcast spectrum to build a truly public communications network – one modeled after the Internet, where everyone is a programmer of information.

A rare opportunity exists to create a national network based on “teleparticipation” and community data broadcasting instead of read-only television. Let us not waste it. We must think in terms of people-to-people communication and a wireless highway that links together neighborhoods, communities and public institutions.

Since the digital spectrum is public property, please consider what the public has to say on this issue by appointing a citizen’s committee to supplement the recommendations of this panel.

Enclosed are copies of my public comments to the Gore Commission including a videotape of a TV show I created earlier this year about this issue. It was done with a single digital camcorder and broadcast to my community from Manhattan Neighborhood Network, the largest public access station in the country. It also features an interview with committee member Gigi Sohn.

I am sending this tape to give you an idea of how ordinary citizens can participate in democracy by combining TV access with Internet access, and how government institutions can establish a direct dial to the public through digital communications. My information was based on the NTIA’s transcripts of the meetings on the Internet which allowed me to be a virtual participant.

Imagine the possibilities with digital TV and data broadcasting: interactive “government at your fingertips.”

Last week, a Los Angeles Times lead editorial described the Gore Commission report as a “national scandal” in its failure to stand up for the public. But perhaps the biggest scandal of all is the lack of access in the age of abundance. Vast amounts of publicly owned bandwidth sit before us while communities struggle to get connected.

Let us work towards opening up the digital spectrum to public use and restoring our democracy to its roots. Digital television is too important to be left to industry insiders or market forces. The public must have the ultimate voice.

Sincerely,



Alexandra Kol

Enclosures



Federal Communications Commission
Washington, D.C. 20554

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APR 19 2000

FCC MAIL ROOM

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RS-551
CN-9900377

Ms. Alexandra Kol
50 Windsor Place
Brooklyn, New York 11215

Dear Ms. Kol:

The White House has asked the Federal Communications Commission to respond to your letter and accompanying videotape recommending that digital television be used to create a national community access network that would ensure quality participation by communities, individuals, government institutions, schools, libraries, and other public entities.

In its Fifth Report and Order in the digital television proceeding, the Commission recognized that in the digital age broadcasters will remain trustees of the public's airwaves. The Commission also recognized that the dynamic and flexible nature of digital technology creates the possibility of new and creative ways for broadcasters to serve the public interest. Various parties have proposed ideas for defining and implementing such public interest requirements. Some contend that TV broadcasters' public interest obligations in the digital world should be clearly defined and support specific obligations such as community access programming. Others believe that our current public interest obligations should not change.

The Commission is reviewing this important issue. As you note in your letter, the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters (Gore Commission) has recently issued its recommendations. The Commission will study these recommendations and then decide, in consultation with Congress, the appropriate steps it should take on the issue of broadcasters' public interest obligations. It may, for example, choose to issue a Notice of Inquiry to gather more information and allow additional public comments on this issue. You may wish to submit your comments should such a proceeding be initiated.

Thank you for your interest in this matter.

Sincerely,

Roy J. Stewart
Chief, Mass Media Bureau