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Lowell W. Paxson, Chairman

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

May 3, 2000

William E. Kennard
Chairman
Federal Communications Commission
445 12th Street, S.W.
Room B-102H
Washington, DC 20554

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Re: CS Docket No. 98-120
Doc. WT Docket No. 99-168

Dear Chairman Kennard:

On behalf of Paxson Communications Corporation ("PCC"), I applaud your decision to postpone the 700 MHz spectrum auction from June 7 until sometime in September, 2000. PCC agrees with you that the public interest will be best served by such a delay and I have urged Congressional leaders to support your efforts in this regard.

As you know, PCC believes that there is an inevitable linkage between the Commission's decision on DTV must carry and your agency's success in maximizing the public benefits from the 700 MHz auction. As I indicated in my letter of March 31, 2000, guarantee of cable carriage for broadcasters' digital signals will encourage those broadcasters operating in the Channels 59-69 band to negotiate with potential 700 MHz auction bidders for an early removal of broadcast operations from that band. The end results--increased auction proceeds, faster digital transition and earlier and fuller use of the spectrum are all positive public interest benefits. Additional time before the auction commences will permit the government to set the stage for private parties to accomplish these goals.

Let me be very specific as to the ability of the FCC to achieve these multiple goals. PCC owns 19 of the 138 analog and digital television stations and permittees identified by the FCC as needing to be removed from the Channels 59-69 band following the 700 MHz auction. PCC is willing to move its analog operations for these TV stations to an exclusively digital operation within 24 months of the conclusion of the 700 MHz auctions, if: (1) there is an acceptable DTV must carry rule in place (2) the FCC has established a policy for moving DTV allocations from this band, and (3) PCC is paid reasonable compensation from the auction bidders for terminating these television analog operations. PCC believes that other similarly situated broadcasters are also willing to relocate their digital operations under the same conditions as PCC. We believe that this market driven process will work and will permit private parties negotiating privately to help the FCC to accomplish the public interest benefits. To that end, however, PCC opposes

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Paxson Communications Corporation [illegible] Clearwater Park Road West Palm Beach, FL 33401
561-659-4122 Fax: 561-659-9122 www.paxtv.com
An American Stock Exchange Company (AMEX: PAX)

government-mandated relocations and urges the Commission not to put the Petition for Rulemaking recently filed by Spectrum Exchange Group, L.L.C. on Public Notice. PCC submits that the proposals of the Spectrum Exchange Group raise serious legal issues that will undermine the FCC's efforts in the 700 MHz spectrum auction and could lead to years of protracted lawsuits.

As you are aware, we believe that digital DTV must carry is the key to broadcasters' survival during the DTV transition and is absolutely critical to the maximization of the FCC's auction efforts. To that end, PCC will, within the next ten (10) days, send written DTV must carry election notices to cable operators and open video system operators in the Chicago DMA requesting must carriage for PCC's digital television station in Chicago, Illinois, WCPX-DT, Channel 43, Chicago, Illinois. PCC believes that is it entitled to such DTV must carriage and it intends to pursue those rights at the FCC and, if necessary, through the courts based on the PAXTV digital must carry proposal that PCC has presented to the Commission and which is attached as Exhibit A. However, at the same time. PCC believes that it would be a better use of resources for the FCC to clearly articulate the DTV must carriage rights of all broadcasters and, in the process, strengthen the likelihood of a strong and successful auction of the 700 MHz spectrum and a smooth and efficient DTV transition.

As always, I am prepared to meet with you and the other Commissioners to discuss these matters at your earliest convenience.

Best regards.

Very truly yours,

Lowell W. Paxson
Chairman, Paxson Communications Corporation

Enclosure – Exhibit A

cc (w/encl): Commissioner Susan Ness
Commissioner Harold Furchtgott-Roth
Commissioner Michael K. Powell
Commissioner Gloria Tristani

DISCUSSION PAPER

RE: PAX DTV Must Carry Proposal

DATE: May 3, 2000

The Communications Act currently provides for must carry for analog television stations, at their election, and upon completion of the DTV transition, also provides a must carry election for the free programming services of digital television stations. During the digital transition years, PAX TV urges the Commission to provide mandatory carriage for either a station's analog or digital channel at the election of the station. This procedure, which would not apply to those stations seeking retransmission consent, would work as follows:

CARRIAGE RIGHTS

Analog Carriage. Those stations choosing analog carriage would continue to have their existing television signal carried by cable systems until the DTV transition is completed. However, prior to the completion of the DTV conversion process, these stations could elect to have their analog signal replaced by their digital signal(s) by making such an election within 90 days of commencing DTV operations and there would be a yearly election opportunity each January 1st.

Digital Carriage. Television stations could elect to have their analog signal removed from the cable systems and replaced with their digital signal(s).

A station broadcasting a single digital signal and electing digital must carry would have its HDTV signal converted to analog and carried at the same channel location and on the same basic service tier as the existing analog signal. When a cable operator's digital set-top box penetration reaches ____% of its subscribers, the system would also begin to carry the digital signal in the system's digital tier.

Stations broadcasting multiple DTV signals would have their primary digital signal replace their primary analog signal on cable systems at the same channel location and on the same basic tier of service as their existing analog signal. This primary digital signal requires approximately 1.0 to 1.2 MHz of the station's 6 MHz digital signal but will utilize a full 6 MHz of a cable analog channel. The remaining portion of the station's digital signal would be used to deliver four to five or more additional channels of free programming services to the cable system that would be carried on the digital portion of the cable system served by the set-top digital box. For a cable system that employs efficient digital modulation technology, this would only require 2 to 3 MHz on the cable system. (See the Spectrum Usage discussion below.) For a cable system using less efficient digital modulation technology, this approach would still leave some of the 6 MHz available for the cable system's high speed Internet and telephony services.

The cable channel mapping protocol (PSIP) would permit the multi-cast channels to appear in sequence with the station's primary channel (i.e. if the primary channel is 20, then the multi-cast channels would be 201, 202, 203, and 204). A cable subscriber without a set-top box would simply surf the existing channel line-up from channel 19 to 20 to channel 21 and so on. A cable subscriber with a set-top box would go from channel 19 to channel 20, then to channels 201, 202, 203, 204, before moving on to channel 21.

CARRIAGE LIMITATIONS AND REQUIREMENTS

The digital must carry plan outlined above would be implemented as follows:

- This must carry election would be applicable to cable systems with at least 440 MHz of capacity provided that the systems have installed digital headends and have begun to install digital set-top boxes. Cable operators could be under a FCC mandate to complete the roll-out of digital set-top boxes and digital headends and deploy the most efficient modulation technology by 2004 by adding at least 25% box penetration per year, or some comparable roll-out timeframe. At the present time there are approximately 5 million set-top boxes installed and 4 million of these boxes can handle this multi-cast proposal. All of the new set-top boxes that are now being manufactured and installed are also able to hand the multi-cast must carry.

- This must carry option would be available on a first-come, first-served basis within the existing 33% cap on the use of cable systems' usable activated channels for must carry purposes. The number of usable activated channels in a system would include the analog and digital tiers (where the cable operator can utilize 10 or more channels per 6 MHz of spectrum).

- Complaints regarding compliance with the must carry obligations would be directed to the full Commission for resolution for the first six months and thereafter to the Cable Services Bureau assuming no new or novel issues are raised.

- There could be no perceptible signal degradation of either the primary or multi-cast signals. This standard should be established using an equivalent picture quality standard for other signals carried on both the analog and digital portions of the cable system.

- Three pieces of equipment will be required at the cable headend in order to accommodate mandatory carriage of digital signals: a demodulator (to convert the primary digital channel to baseband digital) an MDR (to separate the primary signal from all of the other signals) and a QAM modulator (the cable headend already has this device) to convert the digital baseband signal from 8VSB to QAM and to place it into the assigned channel slot. The approximate cost per headend per station is $12,000. If the digital box penetration is less than [10] % for the system, then the broadcast station would pay for the equipment. If the digital box penetration is above [10]% for the system then the cable operator would pay for the equipment.

- Cable systems with less than 300 subscribers or fewer than 36 usable activated channels will not be required to comply with these must carry requirements.

- The cable system would not be required to carry multi-cast signals duplicating the programming of the primary signal with program duplication defined as the simultaneous broadcast of identical programming, although time-shifted programming would be entitled to must carry.

- It is the station's obligation to provide a good quality signal to the cable headend and if the station's analog signal is of sufficient quality at the headend then it will be the cable operator's obligation to accept the station's digital signal either over-the-air or by other commercial means.

SPECTRUM USAGE

At the present time cable operators place 10 to 12 cable channel signals within 6 MHz of digital spectrum by transporting those signals, via satellite, to a distant operations center where the signals are compressed and then transmitted, via satellite, to the cable headends to be placed on the digital tier of the cable system to be delivered to the subscribers with set-top boxes. The same compression could be accomplished for local broadcast stations except that the broadcast signals would need to be transported to a distant operations center via satellite and the television stations would lose their ability to insert local programming and commercial matter. To accomplish the same level of signal compression at the cable headend would involve prohibitively expensive equipment at today's prices but this option should be available to the cable operator at its expense.

A cable system employing the most efficient modulation scheme (requiring a digital cable headend and digital set top boxes) has the capability of carrying the full digital load of a station in <u>less than</u> 6 MHz—perhaps as little a 2 MHz. PAX TV understands that all digital set top boxes shipped over the past 18 months employ the most efficient modulation scheme. PAX TV also understands that approximately 1,100 digital cable headends have been deployed that probably cover over 75% of cable households. As a result, these cable operators have the ability to carry two or three broadcasters in the 6 MHz presently used to carry a single analog signal. In short, by employing the most efficient modulation scheme available today, cable operators can <u>generate</u> usable bandwidth while carrying the full digital loads of stations serving their franchise areas.

PUBLIC INTEREST BENEFITS

The PAX DTV Must Carry proposal provides a market-based incentive for broadcasters to build their digital facilities as quickly as possible since the must carry rights are on a first-come, first-served basis after DTV construction.

Providing television stations with the option of digital must carry for their free programming services at this time will encourage program diversity, provide a higher and better use of the broadcast spectrum and encourage broadcasters to transition to their digital facilities and, perhaps, free up the existing analog spectrum more quickly. Of the 96 stations recently identified by the FCC as being impacted by the auction of the channel 60-69 spectrum, PAX TV has 17 of those stations and would consider entering into agreements with the auction winners to speed the implementation of new services if there were in place a digital must carry scheme similar to this proposal.

Under the PAX DTV proposal, cable operators will not be faced with carrying duplicative analog and digital signals of a television station and the cost of the cable headend equipment will be tied to the digital box penetration. Cable operators will not be required to carry duplicate programming or utilize more than 33% of their activated channels for local broadcast signals and it will be up to the broadcasters to seek cable carriage once they have constructed their digital facilities.