

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

**ESTABLISHMENT OF A CLASS A
TELEVISION SERVICE**

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MM Docket No. 00-10

To: The Commission

REPLY TO OPPOSITION TO PARTIAL PETITION FOR RECONSIDERATION

1. The **Community Broadcasters Association** (“CBA”), the trade association of the nation’s low power television (“LPTV”) and prospective Class A television stations, hereby replies to certain of the oppositions filed in connection with CBA’s partial petition for reconsideration (“Petition”) submitted in the above-referenced proceeding.¹ As noted below, the Petitioners’ arguments are without merit. The Commission should disregard these claims and modify its Class A rules and regulations as requested by CBA in its Petition so that the benefits of Class A status are fully realized.

ARGUMENT

A. DTV Applications by Class A Stations

¹ The points discussed in this Reply were made primarily by the oppositions filed by Davis Television Duluth, LLC, *et al.* (filed July 7, 2000) (“*Davis Petition*”) and KM Communications, Inc. (filed July 7, 2000) (together referred to as “*Petitioner*”).

2. KM's argues in its Reply that Class A applicants are not deserving of a second DTV channel, as it would somehow discourage the creation of DTV allotments by other full-power stations. As stated in the Community Broadcasters Protection Act ("CBPA") and as recognized by the Commission in the *Class A Report and Order*², placing Class A applicants on a "primary" level with other broadcasters is necessary to ensure localism and diversity in television broadcasting. Nowhere is this equality more relevant than in the transition to digital broadcasting. If a Class A station can find a second channel on which it can operate, without causing interference to any other station or allotment that is entitled to a higher degree of protection under the CBPA, the Commission should honor the primary status of Class A stations and accept and grant that station's application for DTV service. This acceptance does not place such stations at any competitive advantage to other full-power digital service applicants, but rather is necessary to avoid the irreparable chasm between the digital "haves" and the "have-nots." Congress recognized the possibility of awarding a second channel to Class A stations for DTV operation, as it states that the Commission "shall accept a [digital] license application for such services" and that "[s]uch new license or the original license of the applicant shall be forfeited at the end of the digital service transition period, as determined by the Commission." See Section 336(f)(4). Therefore, the Commission must follow congressional directive and give Class A stations the right to find suitable allotments for digital operation.

B. Full Protection Should be Afforded to Class A Stations

3. Davis' efforts to undermine the filing window for Class A applicants by shortening the period to 30 days are unfounded. While Congress suggested a possible 30-day filing window for

²See *Establishment of a Class A Television Service Report and Order*, 15 FCC Rcd 6355 (2000) ("Report and Order")

Class A applications, it certainly gave the Commission, which has vast expertise in determining the time needed to comply with all factors for filing applications, discretion to set forth a longer period of time. Therefore, because no reason has yet been provided as to why a six month window is contrary to some public interest, the Commission's decision must stand.

4. Finally, Davis' claim that certain parties in this proceeding requested a relaxation of the requirement to comply with full-power station operating rules is ambiguous. The CBA throughout this proceeding has recognized that as a condition to achieving primary status, Class A stations should comply, to the extent technically feasible, with the operating rules imposed on full power stations under Part 73 of the Commission's Rules. In fact, to ensure uniformity and administrative efficiency, the CBA has requested that the Commission place Class A stations under Subpart E of Part 73, so as to ensure all television stations are treated equally in all feasible respects.

CONCLUSION

5. To ensure that the Commission protects the important and unique broadcast service provided by Class A stations, CBA requests that the Commission disregard the specific arguments provided by Davis and KM that are referenced herein, and instead modify its Class A rules and regulations consistent with those changes requested by CBA in its Petition.

Respectfully submitted,

/s/ Edward L. Owen, President

/s/ Michael Sullivan, Executive Director

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July 20, 2000

CERTIFICATE OF SERVICE

I, Donna Brown, hereby certify that on this 20th day of July, 2000, a copy of the foregoing "Reply to Oppositions to Partial Petition for Reconsideration" has been served by first-class United States mail, postage prepaid, upon the following:

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