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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

In the Matter of	)	
	)	
Carriage of Digital Television Broadcast Signals	)	
	)	
Amendments to Part 76 of the Commission's Rules	)	CS Docket No. 98-120
	)	
Implementation of the Satellite Home Viewer Improvement Act of 1999	)	
	)	
Local Broadcast Signal Carriage Issues	)	CS Docket No. 00-96
	)	
Application of Network Non-Duplication, Syndicated Exclusivity and Sports Blackout Rules to Satellite Retransmission of Broadcast Signals	)	CS Docket No. 00-2

To: The Commission

REPLY COMMENTS OF LIN TELEVISION CORP., MIDWEST TELEVISION, INC., AND RAYCOM MEDIA, INC.

LIN Television Corporation ("LIN"), Midwest Television, Inc. ("Midwest"), and Raycom Media, Inc. ("Raycom"), licensees of commercial television stations in mid-size and smaller markets, submit these reply comments in the above-referenced proceeding to urge the Commission promptly to adopt a comprehensive DTV transition plan that at long last considers the entire digital distribution chain from the broadcast tower to the consumer's home. This plan should include, but not be limited to, a reasonable digital cable carriage solution, without which we are a decade or more away from substantial DTV penetration.

Our companies are moving forward with our DTV build out.[1] At the same time that we are investing heavily in new facilities and have used special HDTV telecasts in some of our markets to promote the transition, we also are exploring DTV business opportunities with our network partners and other service providers that we hope will bring a new kind of free television and a new kind of broadband service to our viewers. While we take these giant steps for our relatively small companies, we are discouraged by the current state of the transition. Cable carriage of digital broadcast signals is almost nonexistent, DTV sets lack full functionality with cable and are prohibitively expensive for many consumers, and as a result DTV receiver penetration remains abysmally low. We fear that, absent concerted Commission action, the transition will remain stalled, our significant investments in DTV facilities will be squandered, and most consumers will be deprived of the benefits of digital television for the foreseeable future. As the initial comments in this proceeding stress, the Commission must take action now to avoid such a disastrous scenario.[2]

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[1] LIN has five DTV stations in operation (New Haven, Indianapolis, Grand Rapids, Norfolk and Austin), with one more (Buffalo) scheduled to go on line this year. LIN has already spent over $22 million on DTV equipment alone and estimates that it will take nearly $20 million more to complete the DTV conversion (not including converting its stations' studios to digital production and upgrading to full high definition capability). Midwest's KFMB station in San Diego is on the air in digital (currently at reduced power due to the California power crisis). Midwest has spent $7 million to date and expects to spend another $5 million to complete the DTV conversion. Raycom has DTV stations on the air in Shaker Heights/Cleveland, OH and Newport, KY/Cincinnati, OH.

[2] See Comments of NAB/MSTV/ALTV, CS Docket Nos. 98-120, 00-96, 00-2, at ii-iii, 13-15, 26-27, App. A (June 11, 2001) ("NAB/MSTV/ALTV Comments"); Comments of Public Broadcasters, CS Docket Nos. 98-120, 00-96, 00-2, at 1 (June 11, 2001) ("Public Broadcasters Comments"); Comments of the Consumer Electronics Association, CS Docket Nos. 98-120, 00-96, 00-2 (June 11, 2001) ("CEA Comments"); Comments of Univision Communications, Inc., CS Docket Nos. 98-120, 00-96, 00-2, at 13-14 (June 11, 2001) ("Univision Comments"); Comments of Maranatha Broadcasting Company, Inc., CS Docket Nos. 98-120, 00-96, 00-2, at 4-5 (June 11, 2001) ("Maranatha Comments"); Comments of KSLS, Inc. and KHLS, Inc., CS Docket Nos. 98-120, 00-96, 00-2, at 3 (June 11, 2001).

As some have suggested, what the transition needs is a comprehensive action plan involving government (including the Commission and Congress, as appropriate) and the three principal industries -- broadcasting, cable and equipment manufacturers -- whose effective participation is necessary if the transition is to have a chance to succeed.[3] Such a plan can and should be crafted to impose limited burdens tailored to advance the DTV transition without usurping real marketplace solutions. Toward that end, we join a number of other commenters in urging the Commission to impose a tailored, transitional DTV cable carriage requirement and adopt consumer-friendly receiver rules to ensure that television sets, by a date certain, are equipped and adequately designed to receive DTV.

I. Cable Carriage Requirement

Nobody doubts that, with cable operators controlling access to 70% of television households, the DTV transition cannot succeed without cable carriage of digital signals.[4] Although cable operators have had four years to negotiate voluntary carriage of broadcasters' digital signals (during which time they have aggressively deployed their own digital cable services), DTV signals -- even those offering unique services and a significant amount of prime-time high definition programming -- remain unavailable to the vast majority of cable subscribers. In our experience, our local cable systems generally are unwilling to discuss carriage of our DTV

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[3] See, e.g., Testimony of Ben Tucker, Executive Vice President for Broadcast Operations, Fisher Broadcasting, Inc. and NAB Television Board Chairman, before the Senate Committee on Commerce, Science and Transportation, Hearing on the Transition to Digital Television Broadcasting, at 4-5 (Mar. 1, 2001) ("Tucker Testimony"); Public Broadcasters Comments, at 1-2, 6-7.

[4] See, e.g., Congressional Budget Office, Completing the Transition to Digital Television, at I.3, III.4-6 (Sept. 2000); NAB/MSTV/ALTV Comments, at App A.; CEA Comments, at 3; Univision Comments, at 5-7.

signals.[5] It is obvious that the market alone will not produce the DTV cable carriage necessary to drive the transition.

Some regulatory intervention clearly is necessary.[6] However, the resulting digital carriage requirement need not be unduly burdensome. For example, a transitional digital cable carriage requirement could be tied to market developments (such as cable's own capacity upgrades) or otherwise tailored to ensure that the limited burden imposed will pass constitutional muster. The comments filed over the course of this proceeding contain a number of viable alternatives designed to accomplish that objective.[7] Using these proposals as a starting point, the Commission is in a position to move expeditiously to develop a workable, transitional carriage

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[5] For example, the San Diego cable systems carrying Midwest's KFMB-TV station (Time Warner, Cox and Daniels) refused to discuss carriage of the KFMB-DT signal during the last round of retransmission consent negotiations, stating that they did not plan to carry local DTV signals for the foreseeable future. This experience is reflected in many of the cable filings in this proceeding. See, e.g., Adelphia Communications Corp. Response to FCC Survey, at 1-2 (June 13, 2001) (stating that Adelphia currently uses all of its digital capacity for "national, multi-plexed programming to meet the requirements of our programming contracts on a nationwide basis"); Armstrong Cable Services Response to FCC Survey, Question 4 (June 28, 2001) (no DTV retransmission agreements signed or in negotiation); BellSouth Interactive Media Services, Inc. Response to FCC Survey, Question 4 (June 13, 2001) (same); Cable One, Inc. Response to FCC Survey, Question 4 (June 13, 2001) (no current carriage of DTV signals, existing agreements provide for contingent carriage only); Cablevision Systems Corp. Response to FCC Survey, Question 4 (June 13, 2001) (no DTV retransmission agreements signed or in negotiation); Insight Communications Response to FCC Survey, Question 4 (June 13, 2001) (no digital carriage requirements in existing agreements); Mediacom Communications Corp., Question 4 (Aug. 6, 2001) (no digital carriage requirements (except contingent on carriage of another local DTV signal) in existing agreements).

[6] We agree with those who have argued that the 1992 Cable Act mandates cable carriage of DTV signals during the transition. See 47 U.S.C. § 534(b)(4)(B); see also NAB/MSTV/ALTV Petition for Reconsideration, CS Docket No. 98-120 (Apr. 25, 2001); Joint Petition for Reconsideration of the Association of America's Public Television Stations, the Public Broadcasting Service, and the Corporation for Public Broadcasting, at 14-18 (Apr. 25, 2001); Maranatha Comments, at 7-8. But even if the Commission has discretion to determine whether or not to adopt transitional digital carriage requirements, it should do so as a matter of sound public policy.

[7] See, e.g., CEA Comments, at 4-6; Comments of the Association for Maximum Service Television, Inc., CS Docket No. 98-120, at 51-55 (Oct. 13, 1998).

requirement that will advance the DTV transition while protecting cable operators' First Amendment rights. Failure to take this necessary step now will leave the DTV transition in limbo indefinitely.

II. DTV Receivers

The participation of consumer equipment manufacturers, like cable operators, is essential to the success of the DTV transition.[8] But manufacturers are still selling millions of analog-only television sets, there are lingering performance problems with the DTV receivers that have been sold, and interoperability between cable systems and DTV sets is still not assured.[9] If the transition is to have a chance at success, the Commission cannot stand on the sidelines and allow these problems to persist indefinitely. The Commission should encourage manufacturers (and other interested parties) to take voluntary steps necessary to remedy the situation. In the absence of such voluntary action leading to prompt resolution of the outstanding issues, we agree with other commenters that the Commission must stand ready to (1) adopt a mandatory requirement (perhaps on a phased-in basis) that all television sets sold after a certain date contain DTV tuners, (2) establish DTV performance thresholds based on the standards used to develop the DTV table of allotments and assignments, and (3) establish requirements for full and effective cable/DTV receiver interoperability.[10]

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[8] See, e.g., Testimony of Dr. Joseph S. Kraemer, Director, LECG, LLC, before the Senate Committee on Commerce, Science, and Transportation, Hearing on the Transition to Digital Television Broadcasting, at 11-12 (Mar. 1, 2001); Tucker Testimony, at 5; Public Broadcasters Comments, at 16; MSTV/NAB/ALTV Comments, MM Docket No. 00-39, at 5 (Apr. 6, 2001) ("MSTV/NAB/ALTV DTV Biennial Review Comments").

[9] See, e.g., Tucker Testimony, at 6-7, 12-14; MSTV/NAB/ALTV DTV Biennial Review Comments, at 2.

[10] See Public Broadcasters Comments, at 16-18; MSTV/NAB/ALTV DTV Biennial Review Comments, at 5-7 ; Tucker Testimony, at 12-16.

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It is widely recognized that the DTV transition is badly off course, with consumers and broadcasters alike suffering the consequences. As the driving force behind the transition and the entity charged with regulating the airwaves in the public interest, it is the Commission's responsibility to take comprehensive, innovative action now to get the transition back on track. We join others who have commented in this proceeding to urge the Commission promptly to meet this responsibility in accordance with the foregoing proposals.

Respectfully submitted,

Gregory M. Schmidt
Vice President-New Development and
General Counsel
LIN Television Corporation
11 Dupont Circle
Suite 365
Washington, D.C. 20036

August C. Meyer
President and CEO
Midwest Television, Inc.
100 West University Avenue
4th Floor
P.O. Box 197
Champaign, IL 61824-0197

Rebecca S. Bryan
Vice President and General Counsel
Raycom Media, Inc.
RSA Tower, 20th Floor
201 Monroe Street
Montgomery, AL 36104

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