

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
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)	
Second Periodic Review of the)	MB Docket No. 03-15
Commission's Rules and Policies)	
Affecting the Conversion)	RM 9832
To Digital Television)	
)	
Public Interest Obligations of TV)	MM Docket No. 99-360
Broadcast Licensees)	
)	
Children's Television Obligations of)	MM Docket No. 00-167
Digital Television Broadcasters)	
)	
Standardized and Enhanced Disclosure)	MM Docket No. 00-168
Requirements for Television Broadcast)	
Licensee Public Interest Obligations)	

**REPLY COMMENTS
OF THE
NATIONAL PUBLIC SAFETY TELECOMMUNICATION COUNCIL**

The National Public Safety Telecommunications Council ("NPSTC") hereby submits the following Reply to Comments filed in response to the Commission's *Notice of Proposed Rulemaking*, FCC 03-8 (released January 27, 2003) ("*NPRM*"), in the above-captioned proceeding. NPSTC join those who have urged the Commission to adopt digital television (DTV) transition rules that will maximize the extent to which the Upper 700 MHz Band is available for Public Safety use, as well as rules that will expedite the complete clearing of incumbent television station and allow nationwide public safety operations in the band.

With over 74,000 public safety organizations in the United States, it is critical to have a resource and an advocate for public safety telecommunications. That is the primary role of the National Public Safety Telecommunications Council. NPSTC is a federation of public safety associations that encourage and facilitate, through a collective voice, the implementation of Public Safety Wireless Advisory Committee (“PSWAC”) recommendations. NPSTC explores emerging public safety telecommunications issues and technologies, and develops recommendations to appropriate governmental bodies to support the broad goals of promoting public safety telecommunications worldwide. Finally, NPSTC serves as a standing forum for the exchange of ideas and information regarding public safety telecommunications. NPSTC currently consists of the following thirteen organizations¹:

- American Association of State Highway and Transportation Officials
- American Radio Relay League
- American Red Cross
- Association of Public-Safety Communications Officials-International
- Forestry Conservation Communications Association
- International Association of Chiefs of Police
- International Association of Emergency Managers
- International Association of Fire Chiefs
- International Association of Fish and Wildlife Agencies
- International Municipal Signal Association
- National Association of State Emergency Medical Services Directors
- National Association of State Telecommunications Directors
- National Association of State Foresters

In 1997, Congress required the FCC to allocate 24 MHz of spectrum from TV channels 60-69 (the “Upper 700 MHz Band”) for public safety radio services. This new public safety spectrum will provide expanded capacity to relieve dangerous congestion on existing public safety radio systems, provide opportunities for deployment of new communications technologies, and facilitate the creation of wide-area, multi-jurisdictional radio systems to enhance interoperability for first responders. NPSTC has focused much of its attention on developing

¹ A number of Federal agencies are affiliate members of NPSTC and active participants in its ongoing efforts.

policies, procedures and databases to promote effective, efficient, and interoperable public safety use of this newly allocated spectrum.

Unfortunately, the benefits of the 700 MHz public safety spectrum cannot be realized nationwide until the band is cleared of television broadcast stations. Current provisions of the Communications Act allow those stations to remain on the air until December 31, 2006, or until at least 85% of television households in the relevant market have access to DTV. Yet, public safety agencies need access to this spectrum today, especially in light of the increased homeland security responsibilities now being placed on local, county, tribal and state governments.

Therefore, NPSTC strongly supports those who have urged the Commission to take all steps within its statutory authority to expedite the availability of the Upper 700 MHz Band for public safety use. Clearing of the entire 24 MHz of public safety spectrum nationwide as soon as possible is essential. In the interim there are portions of the nation where at least some of the 24 MHz of public safety spectrum can be used today without causing interference to incumbent television stations. To facilitate and encourage such public safety operations, the FCC must limit the extent of interference protection afforded television broadcasters to that which is absolutely necessary to protect actual operations and viewers.

In particular, NPSTC supports the Comments of the New York State Office for Technology (“New York”) in this proceeding that set forth specific recommendations for limiting the extent of interference protection necessary for incumbent broadcast stations.² As New York explains, minor rule adjustments could have a major impact upon the size of the area in which public safety systems could operate using the Upper 700 MHz Band spectrum without interference to television reception. These rule adjustments include: easing the taboo restrictions

² See Comments of Statewide Wireless Network, New York State Office for Technology (April 21, 2003), at 9-21.

on early DTV/In-Core analog transition swaps, imposing early replication deadlines, and continuing the protection of only “actual” broadcast parameters when evaluating interference. The clarifications and default parameters for Engineering Studies provided by New York also appear to be well-founded, and should enable Public Safety agencies to better evaluate the necessary separation between their operations and incumbent broadcast services, with a better expectation of what the Commission considers a valid showing. In particular there is great merit in New York's assertion that the application of frequency specific D/U criterion on both co- and adjacent channels will allow for maximum sharing of this 700 MHz spectrum, with minimum interference. Using this approach, there are portions of the television channels 63/68 and 64/69 that can be used by public safety.

Because these engineering adjustments do not open the spectrum for public safety in core metropolitan areas, NPSTC also urges the FCC to adopt rules and policies to expedite the nationwide clearing of the Upper 700 MHz Band. Section 309(j) (14) (B) of the Communications Act establishes minimum DTV penetration benchmarks that must be met before a television station must relinquish its analog channel allotment. In general, the statute requires that at least 85% of the television households in a relevant market must have access to DTV signals.³ As the Commission discusses in the *NPRM*, the rules and policies adopted to implement Section 309(j) (14) (B) could have a major impact on the availability of the Upper 700 MHz Band for public safety and other uses. Thus, NPSTC strongly supports those who have urged the Commission to adopt rules that will expedite the clearing of television stations from the band.

³ Many of NPSTC's members have also actively supported legislation that would eliminate the 85% benchmark for television stations blocking public safety use of the Upper 700 MHz Band, and thus clear the channels by December 31, 2006.

As part of this clearing effort, we encourage the Commission to investigate methodologies to include actual television viewership in meeting the 85% coverage requirement. It is NPSTC's belief that a significant percentage of television viewers receive their signals over digital cable, with set-top conversion boxes that provide an output to analog (NTSC) and/or HDTV sets. At the same time, another large group of viewers receive their signals from Direct Broadcast Satellite (DBS) providers whose downfeeds are inherently digital and whose receivers again provide NTSC and/or HDTV outputs. Both of these groups should be consolidated with over-the-air viewers into the total viewership able to receive digital television broadcasts.

Finally, it is NPSTC's belief that there are a number of television stations who provide an on-the-air signal primarily to qualify for the Commission's "must-carry" requirement into cable television systems, even though few of these cable carriers actually receive their input signal over-the-air. This especially holds true for the upper television channels in the 700 MHz band. If the Commission could resolve the issue of "must carry" while at the same time not requiring these incumbent stations to continue to transmit an over-the-air signal, a number of these stations might voluntarily cease operation on the impacted 700 MHz public safety channels.

CONCLUSION

For the reasons set forth above, the Commission should take all necessary steps, including those recommended by the New York State Office of Technology, to ensure the maximum availability of 700 MHz public safety spectrum nationwide as soon as possible.

Respectfully submitted,

NATIONAL PUBLIC SAFETY
TELECOMMUNICATIONS COUNCIL

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