



1225 Nineteenth Street, N.W., Suite 450 Washington, D.C. 20036 (202) 296-4933

EX PARTE OR LATE FILED

ORIGINAL

Alexander V. Netchvolodoff  
Senior Vice President of Public Policy

May 29, 2003

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RECEIVED

MAY 29 2003

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Written Ex Parte  
MB Docket No. 02-277

Dear Ms. Dortch:

On May 20, 2003, the Fox Entertainment Group, Inc. and Fox Television Stations, Inc., National Broadcasting Company, Inc. and Telemundo Communications Group, Inc., and Viacom ("the Joint Networks") filed a written ex parte in the above-referenced proceeding urging the Commission to retain the UHF discount should it decide not to eliminate the 35 percent national television ownership cap. In support of their argument, the Joint Networks attached charts purporting to show that, for NBC-Telemundo, CBS and FOX, the average network-owned UHF station provides an over-the-air Grade B signal that reaches 56, 57 and 61 percent, respectively, of the service area of the average same-market network-owned VHF station. The charts do not show additional market coverage obtained through cable<sup>1</sup> and satellite carriage.<sup>2</sup>

The Joint Networks' UHF coverage data are misleading at best, however, because they use geography (square miles covered by a station signal) rather than population (number of persons in the station's service area predicted to receive interference-free Grade B signal strength) to compare the stations' service areas. As described in the attached engineering analysis prepared by Denny & Associates, P.C., interference-free population coverage, not square mile coverage, is the more appropriate means for measuring the number of viewers that can receive a station's Grade B signal, and hence its audience

<sup>1</sup> In its 1995 Order eliminating the Prime Time Access Rule, the Commission cited a study prepared by Economists Inc. on behalf of ABC, CBS and NBC as "further evidence that cable growth has significantly reduced the UHF handicap." See *Report and Order, In re Review of the Prime Time Access Rule, MM Docket No. 94-123*, 11 FCC Rcd. 546, 583-586 (1995). Since 1995, cable and DBS penetration has continued to increase.

<sup>2</sup> As shown in the attached chart, Cox Communications, Inc., the country's fourth largest cable operator, carries the networks' UHF signals in markets with network O&Os that are served by a Cox cable system. Moreover, the websites for both DirecTV and Echostar state that local television channels are available via DBS service in each of the markets listed in the Joint Networks' charts. See [www.directv.com](http://www.directv.com) and [www.dishnetwork.com](http://www.dishnetwork.com).

No. of Copies rec'd 0+2  
List: ABCDE

Page Two  
Ms. Marlene H. Dortch  
May 29, 2003

reach.<sup>3</sup> When interference-free population coverage rather than geographical coverage is used to compare the Joint Networks' same-market UHF and VHF stations, the Joint Networks' figures change dramatically. For NBC/Telemundo, its UHF stations on average reach 94.7% of the interference-free population of its same-market VHF stations; for CBS, the average UHF coverage is 87.1%; and for FOX, the UHF average coverage is 92.7%. Denny & Associates also compared the population coverages of ABC owned-and-operated VHF stations with comparable UHF stations in the market, and calculated that, on average, the UHF station reaches 95.5% of the population reached on average by ABC's VHF stations.

The attached engineering analysis also compares the interference-free populations within UHF and VHF television station service areas for markets in which Cox Television operates one or more local television stations. That analysis demonstrates that, with one exception, the over-the-air Grade B signal of a competing UHF station in each Cox market reaches between 84.8% and 123% of the population in the service area of the Cox-owned VHF station in the market.<sup>4</sup> Moreover, in Orlando, Florida, the Cox-owned UHF station reaches 139% of the population in the service area of the Cox-owned VHF station.<sup>5</sup>

Pursuant to Section 1.1206(b) of the Commission's Rules and the Commission's Notice of Proposed Rulemaking in this proceeding, an original and one copy of this letter are being submitted for inclusion in the record. Should there be any questions about this filing, please contact the undersigned.

Respectfully submitted,



Alexander V. Netchvolodoff

cc: Mania Baghdadi  
Linda Senecal  
Qualex International

---

<sup>3</sup> Interference-free population data for television stations providing existing NTSC service has been calculated by the Commission and is set forth in Appendix B to the DTV Table of Allotments adopted in MM Docket No. 87-268.

<sup>4</sup> The sole exception is Johnstown-Altoona, Pennsylvania (Market 96), where UHF station WKBS-TV, Channel 47, is sited several miles east of Cox's VHF station WJAC-TV, Channel 6. As a result, WKBS provides Grade B or better strength to the less densely populated area to the east around State College, while WJAC provides Grade B or better signal strength to the more densely populated area to the west around Pittsburgh.

<sup>5</sup> The Denny & Associates analysis also examines only over-the-air coverage, and does not include cable or satellite carriage.

## **APPENDIX A**

**NETWORK OWNED AND OPERATED TELEVISION STATIONS BROADCASTING  
ON UHF CHANNELS THAT ARE CARRIED BY COX COMMUNICATIONS**

<b>Cox Communications Market</b>	<b>Network Owned &amp; Operated UHF Station</b>	<b>Channel</b>	<b>Owner</b>	<b>Network</b>
Washington, DC (Fairfax, VA)	WDCA(TV)	20	News Corp	UPN
Phoenix, AZ	KUTP(TV)	45	News Corp	UPN
San Diego, CA	KNSD(TV)	39	GE	NBC
Norfolk-Virginia Beach, VA (Hampton Roads)	WGNT-TV	27	News Corp	UPN
Raleigh-Durham, NC	WNCN(TV)	17	GE	NBC
New Orleans, LA	WUPL(TV)	54	News Corp	UPN
Oklahoma City, OK	KAUT-TV	43	News Corp	UPN
Providence, RI	WLWC-TV	28	News Corp	UPN

## **APPENDIX B**

**DENNY & ASSOCIATES, P.C.**  
**CONSULTING ENGINEERS**  
**OXON HILL, MARYLAND**

---

**ENGINEERING EXHIBIT**  
**MEDIA BUREAU DOCKET NO. 02-277**  
**COX BROADCASTING**

**ENGINEERING STATEMENT**

This engineering statement has been prepared on behalf of Cox Broadcasting (Cox). We have reviewed the *ex parte* filing of the Fox Entertainment Group, Inc. and Fox Television Stations, Inc., National Broadcasting Company, Inc., and Telemundo Communications Group, Inc., and Viacom (“the Joint Networks”) of May 20, 2003, with particular attention to the document entitled “The UHF Discount.” In support of its discussion, three attachments are included that compare the area enclosed by the Grade B contour of a VHF TV station with the area enclosed by a related UHF TV station. The area-based coverage studies submitted by the Joint Networks do not consider the critically important metric of population served. The size of a TV station’s Grade B contour is a measure of the extent of coverage, and the location of the Grade B contour identifies the geographic area with which the TV station is associated. However, coverage, in audience measurement terms, is the ability of a TV household to view a TV station. The population

**DENNY & ASSOCIATES, P.C.**  
**CONSULTING ENGINEERS**  
**OXON HILL, MARYLAND**

---

Engineering Exhibit  
Cox Broadcasting

Page 2

predicted to receive an interference-free Grade B or better signal from a TV station is a far better predictor of coverage than the area enclosed by that station's Grade B contour.

The Joint Networks' Attachments A, B, and C compare areas within the conventional Grade B contours, which were not adjusted as they should have been to exclude large bodies of water. Figures 1 through 3 of this engineering exhibit restate the Joint Networks' Attachments A, B, and C in terms of population predicted to receive interference-free Grade B or better signal strength.<sup>1</sup> The same UHF TV stations that the Joint Networks say will reach 56 to 61 percent of the coverage area reached by the related VHF TV stations are predicted to provide interference-free Grade B or better signal strength to between 87.1 percent and 94.7 percent of the populations served by the related VHF TV stations. Although the Joint Networks did not present information related to the ABC TV stations, Figure 4 of this engineering exhibit presents population data showing that UHF TV stations in the markets where ABC owns and operates VHF TV stations provide

---

<sup>1</sup> The population data used in Figures 1 through 4 of this engineering exhibit were obtained from Appendix B, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, MM Docket No. 87-268, 13 FCC Rcd 7418 (1998).

DENNY & ASSOCIATES, P.C.  
CONSULTING ENGINEERS  
OXON HILL, MARYLAND

Engineering Exhibit  
Cox Broadcasting

Page 3

interference-free Grade B or better signal strength to 95.5 percent of the population served by the ABC TV stations. A similar study was prepared comparing the populations receiving interference-free Grade B or better signal strength from the Cox owned VHF TV stations to the populations receiving interference-free Grade B or better signal strength from UHF TV stations in each Cox market.<sup>2</sup> That study may be found following Figure 4 of this engineering exhibit.

CERTIFICATION

I certify under penalty of perjury that the foregoing is true and correct. Executed on May 29, 2003.

  
Robert W. Denny, Jr., P.E.



---

<sup>2</sup> An exception was made in El Paso, where Cox owns KFOX-TV, channel 14. In this market, the Cox UHF TV station was compared to VHF TV station KDBC-TV, channel 4.

**ENGINEERING EXHIBIT  
MEDIA BUREAU DOCKET NO. 02-277  
COX BROADCASTING**

**VHF-UHF INTERFERENCE-FREE GRADE B SIGNAL STRENGTH  
COMPARISON OF POPULATION SERVED**

**NBC/TELEMUNDO SAME-MARKET STATIONS**

<u>Market</u>	<u>VHF Station/ Channel</u>	<u>NTSC Current Service Population</u>	<u>UHF Station/ Channel</u>	<u>NTSC Current Service Population</u>	<u>UHF Pop./ VHF Pop.</u>
New York	WNBC/4	17,182,000	WNJU/47	16,110,000	93.7%
Los Angeles	KNBC/4	14,262,000	KVEA/52 KHWY/22	12,070,000* 12,151,000	84.6% 85.2%
Chicago	WMAQ/5	8,322,000	WSNS/44	8,189,000	98.4%
Dallas	KXAS/5	4,227,000	KXTX/39	4,095,000	96.9%
Miami	WTVJ/6	2,793,000	WSCV/51	3,627,000	129.9%
San Francisco	KNTV/11	4,933,000	KSTS/48	4,803,000	97.4%
TOTAL		51,719,000		48,975,000	94.7%
AVERAGE		8,619,833		8,162,500	94.7%

\*Not included in total or average to avoid double count in market.

Note: Population data obtained from Appendix B, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, MM Docket No. 87-268, 13 FCC Rcd 7418 (1998).

**ENGINEERING EXHIBIT  
MEDIA BUREAU DOCKET NO. 02-277  
COX BROADCASTING**

**VHF-UHF INTERFERENCE-FREE GRADE B SIGNAL STRENGTH  
COMPARISON OF POPULATION SERVED**

**CBS SAME-MARKET STATIONS**

<u>Market</u>	<u>VHF Station/ Channel</u>	<u>NTSC Current Service Population</u>	<u>UHF Station/ Channel</u>	<u>NTSC Current Service Population</u>	<u>UHF Pop./ VHF Pop.</u>
Philadelphia	KYW-TV/3	7,578,000	WPSG-TV/57	6,210,000	81.9%
San Francisco	KPIX-TV/5	5,968,000	KBHK-TV/44	4,859,000	81.4%
Boston	WBZ-TV/4	6,716,000	WSBK-TV/38	6,037,000	89.9%
Dallas	KTVT/11	4,150,000	KTXA/21	4,053,000	97.7%
Miami	WFOR-TV/4	4,013,000	WBFS-TV/33	3,598,000	89.7%
TOTAL		28,426,000		24,757,000	87.1%
AVERAGE		5,685,200		4,951,400	87.1%

Note: Population data obtained from Appendix B, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, MM Docket No. 87-268, 13 FCC Rcd 7418 (1998).

**ENGINEERING EXHIBIT  
MEDIA BUREAU DOCKET NO. 02-277  
COX BROADCASTING**

**VHF-UHF INTERFERENCE-FREE GRADE B SIGNAL STRENGTH  
COMPARISON OF POPULATION SERVED**

**FOX SAME-MARKET STATIONS**

Market	VHF Station/ Channel	NTSC Current Service Population	UHF Station/ Channel	NTSC Current Service Population	UHF Pop./ VHF Pop.
Minneapolis	KMSP/9	2,798,000	WFTC/29	2,662,000	95.1%
Washington, DC	WTTG/5	6,533,000	WDCA/20	5,746,000	88.0%
Phoenix	KSAZ/10	2,216,000	KUTP/45	2,202,000	99.4%
Dallas	KDFW/4	4,278,000	KDFL/27	4,058,000	94.9%
TOTAL		15,825,000		14,668,000	92.7%
AVERAGE		3,956,250		3,667,000	92.7%

Note: Population data obtained from Appendix B, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, MM Docket No. 87-268, 13 FCC Rcd 7418 (1998).

**ENGINEERING EXHIBIT  
MEDIA BUREAU DOCKET NO. 02-277  
COX BROADCASTING**

**VHF-UHF INTERFERENCE-FREE GRADE B SIGNAL STRENGTH  
COMPARISON OF POPULATION SERVED**

**ABC O&O STATIONS  
TO COMPARABLE UHF STATIONS IN MARKET**

Market	VHF Station/ Channel	NTSC Current Service Population	UHF Station/ Channel	NTSC Current Service Population	UHF Pop./ VHF Pop.
Los Angeles	KABC/7	13,555,000	KMEX/34	12,247,000	83.0%
Fresno	No VHF in Market	NA	KFSN/30	1,130,000**	NA
San Francisco	KGO/7	5,866,000	KDTV/14	5,313,000	90.6%
Houston	KTRK/13	3,870,000	KTBU/55	3,838,000	99.2%
New York	WABC/7	17,189,000	WPXN/31	16,434,000	95.6%
Flint	WJRT/12	1,807,000	WEYI/25	1,838,000	101.7%
Chicago	WLS/7	8,361,000	WFLD/32	8,322,000	99.5%
Philadelphia	WPVI/6	7,747,000	WTFX/29	7,499,000	97.8%
Raleigh/ Durham	WTVD/11	2,109,000	WKFT/40	2,229,000	105.7%
Toledo	WTVG/13	2,293,000	WNWO/24	2,257,000	98.4%
<b>TOTAL</b>		<b>62,797,000</b>		<b>59,977,000</b>	<b>95.5%</b>
<b>AVERAGE</b>		<b>6,977,444</b>		<b>6,664,111</b>	<b>95.5%</b>

\*\*Not included in total or average because there is no VHF station in the market.

Note: Population data obtained from Appendix B, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, MM Docket No. 87-268, 13 FCC Rcd 7418 (1998).

**DENNY & ASSOCIATES, P.C.**  
**CONSULTING ENGINEERS**  
**OXON HILL, MARYLAND**

---

**COMPARISON OF POPULATIONS WITHIN  
VHF AND UHF TELEVISION SERVICE AREAS  
COX BROADCASTING MARKETS**

<u>Market (Rank)</u>	
Call sign, City, State	Population <sup>i</sup>
Channel, ERP <sup>ii</sup> , HAAT <sup>iii</sup>	
<u>San Francisco-Oakland-San Jose, California (5)</u>	
KTVU(TV), Oakland, CA	5,970,000
Ch. 2+, 100 kW, 479 m.	
KICU-TV, San Jose, California	5,063,000
Ch. 36z, 4070 kW (Max-DA, BT) <sup>iv</sup> , 686 m.	(84.8 % of KTVU)
<u>Atlanta, Georgia (9)</u>	
WSB-TV, Atlanta, Georgia	3,391,000
Ch. 2z, 100 kW, 316 m.	
WATL(TV), Atlanta, Georgia	3,076,000
Ch. 36z, 2690 kW (Max-BT), 313 m.	(90.7% of WSB-TV)
<u>Seattle-Tacoma, Washington (12)</u>	
KIRO-TV, Seattle, Washington	3,015,000
Ch. 7z, 316 kW, 250 m.	
KWOG(TV), Bellevue, Washington	2,949,000
Ch. 51+, 3800 kW (Max-DA, BT), 719 m.	(97.8% of KIRO-TV)

**DENNY & ASSOCIATES, P.C.**  
CONSULTING ENGINEERS  
OXON HILL, MARYLAND

---

Comparison of Populations Within  
VHF and UHF Television Service Areas  
Cox Broadcasting Markets

Page 2

Orlando-Daytona Beach-Melbourne, Florida (20)

WFTV(TV), Orlando, Florida Ch. 9z, 316 kW (Max-BT), 479 m.	2,183,000
WRDQ(TV), Orlando, Florida Ch. 27z, 5000 kW (Max-DA, BT), 569 m.	3,043,000 (139% of WFTV)
WKCF(TV), Clermont, Florida Ch. 18-, 5000 kW (Max-DA, BT), 513 m.	2,101,000 (96.2% of WFTV)

Pittsburg, Pennsylvania (21)

WPXI(TV), Pittsburg, Pennsylvania Ch. 11z, 316 kW (Max-BT), 305 m.	3,090,000
WPGH-TV, Pittsburgh, Pennsylvania Ch. 53+, 2340 kW (Max-BT), 308 m.	2,729,000 (88.3% of WPXI)

Charlotte, North Carolina (27)

WSOC-TV, Charlotte, North Carolina Ch. 9+, 316 kW (Max-BT), 364 m.	1,859,000
WCNC-TV, Charlotte, North Carolina Ch. 36z, 5000 kW (Max-BT), 595 m.	2,289,000 (123% of WSOC-TV)

Dayton, Ohio (60)

WHIO-TV, Dayton, Ohio Ch. 7+, 200 kW (Max-BT), 348 m.	3,069,000
WKEF(TV), Dayton, OH Ch. 22+, 2340 kW (Max-BT), 351 m.	2,774,000 (90.4% of WHIO-TV)

Johnstown-Altoona, Pennsylvania (96)

WJAC-TV, Johnstown, Pennsylvania Ch. 6z, 70.8 kW, 341 m.	2,648,000
WKBS-TV, Altoona, Pennsylvania Ch. 47z, 1510 kW (Max-BT), 308 m.	530,000 (20.0% of WJAC-TV)

**DENNY & ASSOCIATES, P.C.**  
**CONSULTING ENGINEERS**  
**OXON HILL, MARYLAND**

---

Comparison of Populations Within  
VHF and UHF Television Service Areas  
Cox Broadcasting Markets

Page 3

El Paso, Texas (101)

KFOX-TV, El Paso, Texas Ch. 14z, 398 kW, 604 m.	720,000 (99.7% of KDBC-TV)
KDBC-TV, El Paso, Texas Ch. 4z, 100 kW, 475 m.	722,000

Reno, Nevada (110)

KRXI-TV, Reno, Nevada Ch. 11z, 178 kW (Max-BT), 854 m.	392,000
KREN-TV, Reno, Nevada Ch. 27+, 1820 kW (Max-DA, BT), 891 m.	387,000 (98.7% of KRXI-TV)

Wheeling, West Virginia-Steubenville, Ohio (150)

WTOV-TV, Steubenville, Ohio Ch. 9+, 316 kW, 290 m.	2,862,000
No commercial UHF TV station in market	

---

<sup>i</sup> Population data obtained from Appendix B, DTV Table of Allotments, *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, in MM Docket No. 87-268 for existing NTSC current service.

<sup>ii</sup> Effective radiated power (ERP).

<sup>iii</sup> Antenna radiation center height above average terrain (HAAT).

<sup>iv</sup> The abbreviation "DA" indicates that a directional antenna is used and that the specified ERP is the maximum achieved in any direction (Max-DA). The abbreviation "BT" indicates that beam tilt is incorporated into the antenna design so that maximum power may be radiated at some angle below or above the horizontal plane of the antenna centerline (Max-BT) rather than solely at the horizontal plane. A directional antenna with beam tilt would be designated "Max-DA, BT."