



Minority Media & Telecommunications Council
3636 16th Street N.W. Suite B-366
Washington, D.C. 20010
Phone: 202-332-0500 Fax: 202-332-0503
www.mmtconline.org

David Honig, Executive Director
Phone: 202-332-7005
Fax: 202-332-7511
e-mail: dhonig@crosslink.net

Henry M. Rivera
Chairperson

Erwin Krasnow
Deborah Lathen
Vice Chairpersons

Lawrence Roberts
Secretary

Everett C. Parker
Treasurer

BOARD OF DIRECTORS

Andrew C. Barrett
Jeneba Jalloh Ghatt
Julia Johnson
Erwin Krasnow
Deborah Lathen
Nicolaine Lazarre
Alex Nogales
Everett C. Parker
Henry M. Rivera
Lawrence Roberts
Andrew Schwartzman
S. Jenell Trigg
Gloria Tristani
Herbert Wilkins

BOARD OF ADVISORS

Raul Alarcon, Jr
Eddie Arnold
Tyrone Brown
Antoinette Cook Bush
Amador Bustos
Angela Campbell
Thomas Castro
Robert Chase
Jannette Dates
Belva Davis
Hon. Uday Dholakia
Moctesuma Esparza
Jerome Fowlkes
Frank Halfacre
Janis Hazel
Ragan A. Henry
Leo Hindery
Reginald Hollinger
Larry Irving
Earle Jones
Philip Napoli
Eli Noam
Vincent A Pepper
Benjamin Perez
Linda Eckard Vilardo
Anthony Williams
Edward Young

January 26, 2004

Johanna Mikes Shelton, Esq.
Legal Assistant to Commissioner Adelstein
Federal Communications Commission
445 12th St. S.W.
Washington, D.C. 20554

Jordan Goldstein, Esq.
Legal Assistant to Commissioner Copps
Federal Communications Commission
445 12th St. S.W.
Washington, D.C. 20554

Re: Digital Multicast Must-Carry and the Public Interest
Obligations of DTV Broadcasters (CS Docket No. 98-120)

Dear Johanna and Jordan:

Thank you for having me over to visit with each of you last week. Following up on our meetings, MMTC would like to present a proposal for breaking the impasse that thus far has delayed a Commission decision regarding mandatory cable carriage of broadcasters' over-the-air DTV signals.

As Commissioners Copps and Adelstein declared in their dissenting statement in the broadcast ownership docket (MB 02-277), the Commission has no greater priority than the full participation of all Americans in broadcasting. If we had a broadcasting system that offered opportunity to all, it would assuredly provide democratic values, national cohesiveness and multicultural understanding. Visitors from around the globe would regard our television system as the greatest in the world -- and much of that perception would derive from the racial and social class diversity reflected in programming available nationwide for the first time if multicast DTV is adopted.

We believe that multicast DTV presents a structural, content-neutral way of accomplishing three desirable objectives:

First, multicast DTV would enable the Commission to overcome some of the structural inequities that have so dramatically thinned the ranks of minority owned broadcasters (see MMTC Comments in MB Docket 02-277, Broadcast Ownership, filed January 2, 2003, pp. 35-50). In particular, multicast DTV would enable minority television broadcasters, drawing upon their unique backgrounds, experiences and perspectives, to develop multicultural programs and program channels. Minority broadcasters would distribute this programming using their own DTV channel capacity and that of their fellow broadcasters.

Second, multicast DTV would help counteract the gatekeeper effects that have contributed to the paucity of minority-themed and multicultural programming, whose availability nationwide is far below the level that would have obtained absent these market imperfections. In particular, the vertically and horizontally integrated structure of the cable industry renders it difficult for minorities and other new entrants to successfully launch any new channel, especially one whose viewership includes moderate income families who must receive television over-the-air or on only basic cable. Assurance of cable carriage would deliver the nation a level of multicultural programming that is commensurate with market demand.

Third, multicast DTV would deliver the nation a cornucopia of readily accessible, diverse program service. Such service would provide a market-based incentive for low income consumers, especially minorities, to become early adopters of DTV technology. That, in turn, would accelerate the date by which the industry attains Congress' 85% threshold for the transition from analog to digital, making possible at the earliest practicable date the rollout of high speed digital wireless service in the 700 MHz band (see MMTC Comments in MB Docket 03-15, DTV Conversion, filed April 21, 2003, pp. 17-26).

Multicast must-carry would be premised on a finding that cable operators should carry the entirety of broadcasters' over-the-air DTV signals. Implicit in this finding is the reaffirmation of local DTV broadcasters' traditional obligation to serve the public interest by broadcasting programming addressing the concerns of the local communities they are licensed to serve.

Consequently, MMTC proposes that the Commission require that broadcasters provide, and air between 7 AM and midnight, some reasonable minimum amount per week of locally-produced programming on each digital programming channel that is transmitted and carried.

This local origination requirement could be met with programming broadcasters themselves develop and produce, or by programming produced and developed by a locally based group from the broadcaster's community of license or service area. The Commission should require compliance with this standard within two years of a station's commencement of DTV

Johanna Mikes Shelton, Esq.
Jordan Goldstein, Esq.
January 26, 2004
Page Three.

multicasting. Each DTV station would file an annual report on its satisfaction of this standard. For those broadcasters unable to meet the standard because of financial difficulties, the Commission should adopt an annual waiver procedure and standard akin to a "failing" station or other equally quantifiable approach.

The Commission's adoption of this minimum local programming requirement in conjunction with mandating full digital multicast must-carry would be a major step forward for the DTV transition, allowing the Commission finally to resolve this five-year old DTV must-carry proceeding and significantly advance its four-year old DTV public interest proceeding. Moreover, this requirement would provide precisely the type of objective, easily verifiable standard that would ensure the Commission that DTV broadcasters are using their digital spectrum to serve their communities while still leaving broadcasters free to respond to the programming demands of the markets they serve.

This minimum local programming requirement would not form the entirety of DTV broadcasters' public interest obligations. The Commission should adopt children's programming requirements in some form, and explore other public interest programming and reporting requirements. Nonetheless, MMTC believes that a minimum per-channel local programming standard is a good starting point and a sensible component of multicast must-carry. Broadcasters and viewers need resolution of these issues, and a minimum per-channel local programming requirement would allow the Commission to provide certainty to all concerned, improved service to every viewer, and a structural means of fulfilling the promise of diversity and inclusion in our most influential industry.

Finally, MMTC urges the Commission, at the earliest practicable date, to conclude its work on the long-pending recommendations of the December, 1998 Final Report of the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters ("DTV Advisory Committee"). The DTV Advisory Committee's recommendations regarding such matters as public interest programming and EEO are well considered and worthy of action. However, such a ruling does not need to be issued simultaneously with the resolution of multicast must-carry as long as the DTV Advisory Committee's work is not allowed to fall off the radar screen. If the Commission is unable to rule on the DTV Advisory Committee's recommendations now, it should state that it will do so before the end of the year.

With kindest regards,

Sincerely,



David Honig
Executive Director

cc: CS Docket No. 98-120 (by ECFS)