

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of

Unlicensed Operation in the TV Broadcast Bands)	ET Docket No. 04-186
)	
Additional Spectrum for Unlicensed Devices)	ET Docket No. 02-380
Below 900 MHz and in the 3 GHz Band)	

To: The Secretary

COMMENTS

Entravision Holdings, LLC (“Entravision”), the licensee of full-service, Class A and low power television stations, which broadcast primarily in Spanish-language, by its attorneys and in response to the Commission's *Further Notice of Proposed Rulemaking*,¹ hereby submits these Comments in the above-referenced proceeding in which the Commission has requested further comment on the Commission's proposal to allow unlicensed operation in television bands at locations where frequencies are not in use by licensed services.

While Entravision supports the Commission's efforts to promote efficient and innovative use of spectrum, such efforts must complement rather than serve to displace traditional broadcast television's use of the available spectrum. Many local viewers, including a disproportionately large percentage of Spanish-speaking viewers, continue to

¹ See *Unlicensed Operation in the TV Broadcast Bands: Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band*, First Report and Order and Further Notice of Proposed Rulemaking, ET Docket Nos. 04-186 and 02-380, 21 FCC Rcd 12266 (2006) (“FNPRM”).

receive signals of local television stations over-the-air. Under the Commission's public interest standard, viewers' undiminished and unimpaired access to television stations' local news and public affairs programming must take precedence over the development and implementation of alternative uses of the spectrum historically dedicated to use by over-the-air television broadcasters. Accordingly, any new rules allowing low power devices to operate in the television spectrum must first and foremost ensure that such devices do not cause harmful interference to existing services. Entravision submits that, for the most part, licensed, as opposed to unlicensed, operation is mandated in order to ensure that device operators take their interference protection obligations seriously. A geographic-based approach to licensing would encourage low power device operators' compliance with applicable standards without imposing undue burdens on the Commission or industry. Protection of television reception and a proposed licensing regime are addressed, in turn, below.

I. Protection of Local Television Reception

While advocates of using television spectrum for low power devices claim that such use will promote spectrum efficiency and technological advancement, these worthy goals do not trump the fundamental communications policy goal of providing basic broadcast television service to viewers. Before the Commission allows any uses – licensed or unlicensed – of the television spectrum for low power device operations, it must ensure that over-the-air television reception will not be compromised in any way by interference from these devices. As a Spanish-language broadcaster, Entravision has a special interest in protecting over-the-air viewers from aggressive use of the television spectrum by non-broadcasters. As noted by Entravision in other proceedings, while over-

the-air viewership falls somewhere between 15 and 20 percent in the population at large,² approximately one in three Spanish-language households receive their programming exclusively over-the-air.³ By way of comparison, exclusive over-the-air reliance among the population at large falls somewhere between 15 and 20 percent. Moreover, the number of Hispanics relying exclusively upon over-the-air service may be increasing rather than decreasing.⁴

Two important factors help explain the high incidence of over-the-air viewership among Hispanics. First, broadcast television historically has been the only substantive source of quality Spanish-language programming, and it remains the best source of such programming today. Second, in sharp contrast to the many other video programming providers in the market, over-the-air television is free.

Nearly 50 percent of Hispanic households exclusively watch Spanish-language programming.⁵ While cable and satellite providers have begun to focus on the Hispanic market, until recently their Spanish-language offerings were minimal, giving Latino

² See National Telecommunications and Information Administration, Notice of Proposed Rulemaking, 71 Fed. Reg. 42067 (July 25, 2006) ("NTIA NPRM") at 42071 (citing legislative history to the DTV Transition Act, H.R. REP. NO. 109-362, at 201 (2005) (Conf. Rep.), for 14.86% over-the-air statistic, and the *GAO Subsidy Program Report* for 19%).

³ See, e.g., *Comments of Entravision Holdings, LLC*, MB Docket No. 04-210 (July 12, 2004) ("*Entravision OTA Comments*") at 1-2 (noting only 72% of Hispanic homes subscribe to cable or satellite, as compared to 85% subscription rate among all households); *Comments of Univision Communications Inc.*, MB Docket No. 04-210 (Aug. 11, 2004) ("*Univision OTA Comments*") at 8 (noting that 33% of Hispanic households nationwide receive programming solely over-the-air); *Reply Comments of Univision Communications, Inc.*, MB Docket No. 04-210 (Sept. 7, 2004) ("*Univision OTA Reply Comments*") at 4 (noting that in addition to 33% of Hispanics who receive all their programming over-the-air, another 7%, comprised of DBS subscribers, receive their local programming exclusively over-the-air).

⁴ See *Univision OTA Comments* at 9; *Univision OTA Reply Comments* at 4.

⁵ See *Entravision OTA Comments* at 4.

viewers little incentive to pay for cable or satellite when over-the-air television better served their needs. Today, broadcast networks such as Univision, Telefutera, Telemundo and Azteca continue to provide the highest quality and best variety of Spanish-language programming. These networks, through their affiliates, are generally available, on full-service and low-power television stations, in most markets where Hispanics reside.

In addition to the superior quality of broadcast programming, it is also a bargain. While the costs of subscription services continue to rise,⁶ over-the-air television remains free to the public. Given an increasingly expensive video marketplace, the well-documented correlation between over-the-air viewership and lower income households is hardly surprising.⁷ The fact that broadcast television is free together with the traditional role of broadcasters in providing Spanish-language programming go a long way in explaining why Hispanics represent a large, concentrated segment of the remaining over-the-air audience.

Given the continued reliance of the population at large and, in particular, Spanish-language viewers, on over-the-air reception, Entravision urges the Commission to adopt strong interference protection standards for any uses of the television spectrum by low power device operators, and to enforce those standards. The Commission must perform adequate field-testing of the experimental methodologies and strategies proposed and incorporate the results into any final rules to establish absolute protection from new harmful interference. Otherwise, such use of the television band, however innovative,

⁶ See, e.g., *Annual Assessment of the Status of Competition in the Market for Delivery of Video Programming*, 19 FCC Rcd 1606 (2004) at ¶ 10 (noting high costs of cable television).

⁷ See, e.g., *Comments of The Association of Public Television Stations*, MB Docket No. 04-210 (Aug. 11, 2004) ("*APTS OTA Comments*") at 9.

will have the unintended consequence of interfering with TV broadcast station transmission and ultimately, hamper the public's TV reception.

Entravision reasserts its position that the Commission's rules must protect television reception out to the limits of practical use and reception.⁸ In its proposal, the Commission has presumed that only locations with signal strengths at least equal to the protected contour value for the several classes of stations will need protection. This presumption completely disqualifies the rural areas where outside antennas are commonplace because the public utilizes fringe area antennas to create a watchable picture from field strengths that are considerably below the Grade B value for full service stations. Further, cable television systems have ignored these areas owing to the cost of constructing the plant necessary to serve homes in areas of low population density. Only over-the-air television and satellite services are available to these viewers.

Further, in developing the Table of Allotments for Digital Television Stations, the Commission recognized the inadequacy of the protected contours and created a sophisticated and accurate method of interference analysis which is known as "Longley-Rice Terrain Dependent Analysis" and is described in the Office of Engineering and Technology Bulletin 69.⁹ As such, in allowing low power devices to operate in the broadcast television spectrum at locations where that spectrum is not being used,

⁸ See Comments of Entravision Holdings, LLC, ET Docket Nos. 04-186 and 02-380 (Nov. 30, 2004) ("2004 Entravision Comments") at 2.

⁹ The software which deploys this methodology (also referred to as the "OET Bulletin 69 Procedure") calculates the signal strength of a protected station in individual cells and subsequently determines which cells have useable signal strength. From that point, software is designed to calculate the interference to these cells before a new station is added and eliminates from consideration those cells which encounter interference. In the final analysis, a new facility must not cause a protected station to lose more than a certain percentage of its covered population; the allowable percentage is dependent upon the type of station that enjoys the protection.

Entravision urges the Commission to pursue the identification of vacant channels and their usable areas by utilizing established OET Bulletin 69 Procedure described above and refrain from using the imprecise calculations offered by the protected contour value technique. The OET Bulletin 69 Procedure methodology for determining the field strength in cells is a well-developed method. Only minor augmentations to the current OET's Bulletin 69 Procedure will be required to provide for a determination of interference free signal strength in each cell. In turn, data can be used to build the database of unused channels cell by cell.

Entravision also submits that protection is needed for ENG operations such as wireless microphones and equipment operate at low power and on unused channels. The presence of other low power devices operating in "unused" spectrum could have a detrimental impact on the use of wireless microphones utilized in covering breaking news, sports and other community events. Such a result is unacceptable.

II. Licensing Low Power Device Operations in Television Bands

As noted by the Commission in the *FNPRM*, many parties, including Entravision, contend that a licensing scheme is essential to device operators taking seriously their obligation to ensure that their devices do not interfere with the signals of local television stations.¹⁰ As previously pointed out by Entravision, upon authorization of use of the television spectrum, a variety of aftermarket accessories will no doubt be introduced allowing unscrupulous operators, both fixed and portable, to exceed the power limit and to defeat channel protection mechanisms. The eligibility requirements, regulation of conduct and threat of sanctions attendant to a licensing regime constitute significant

¹⁰ See *FNPRM* at ¶ 30 (citing 2004 Entravision Comments at 7).

preventive and punitive checks on such unscrupulous behavior. While a licensing scheme may impose additional costs on the Commission and industry, such costs are appropriate and necessary in the public interest, given the paramount importance of protecting broadcast television stations from harmful interference from low power devices abusing the television spectrum.

Moreover, the Commission can devise a geographic-based licensing system that will impose minimal administrative burdens on the Commission and limited costs on low power device operators. As recognized by the Commission in other contexts, a licensing approach that permits technically-qualified operations throughout a licensed geographic area without prior Commission approval avoids the administrative burdens of site-based licensing and reduces the associated transactional and operational costs for licensees.¹¹

Entravision agrees with other broadcasters that the Commission should adopt a Designated Market Area-based ("DMA") approach to licensing low power device operations in the television bands. Under a multi-stage, DMA-based licensing scheme, the Commission should first acknowledge the primacy of broadcast television vis-à-vis the television spectrum by permitting broadcasters to maximize their service areas by applying for (i) a co-channel license to serve the remainder of their DMA, (ii) a modified license to expand their DTV service contour in accordance with DTV interference-protection rules, or (iii) both.

¹¹ See, e.g., *Amendments of Part 1, 21, 73, 74, and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, et al*, Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 03-66, 19 FCC Rcd 14165 (2004) at ¶ 53.

This DMA approach to licensing television stations tracks marketplace reality by aligning service areas with designated local markets. DMA-wide licensing also accords with the recent technological innovations, acknowledged and encouraged by the Commission in its Distributed Transmission System proceeding, enabling broadcasters to move beyond the constraints of traditional transmission facilities through a network of wide area, low power transmitters.¹² Such an approach also places broadcast television on a par with cable and satellite by providing for DMA-wide licensing of a television station, just as cable and satellite are entitled to carry a station throughout that station's entire DMA. This, in turn, serves the public interest by potentially granting over-the-air viewers throughout a DMA access to stations heretofore available only to cable and satellite subscribers and ensures that broadcast stations will no longer have to contest their entitlement to carriage on cable television systems.

Next, after television stations have been given the opportunity to maximize their services, the Commission should allow new entrants to apply for licenses for low power device operations in the television bands. Device operators who meet the requisite eligibility requirements and interference protection standards would be entitled to a license permitting them to operate anywhere within their respective DMA on a secondary basis and without prior Commission approval. Finally, the Commission should allow for certain fixed use by low power devices on an unlicensed and secondary basis only in selected DMAs and on selected frequencies, provided that these devices have been designed in such a manner as not to cause interference to broadcast television stations or other services.

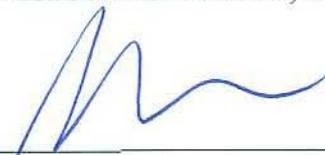
¹² See *Digital Television Distributed Transmission System Technologies*, Clarification Order and Notice of Proposed Rulemaking, 20 FCC Rcd 17797 (2005).

CONCLUSION

Any rules devised by the Commission to permit low power devices to use the broadcast television spectrum must first and foremost ensure that incumbent broadcast operations are fully protected from harmful interference from such devices. Those viewers who still receive television signals over the air, including a disproportionately large percentage of Spanish-speaking viewers, must not have their reception of local television signals compromised by errant low power device operations. The Commission must not place its otherwise laudable interest in promoting new technologies and efficient use of the spectrum above these viewers' access to the news and public affairs programming available on their local television stations. Entravision submits that applying licensing requirements to most low power device operations represents a necessary means of ensuring compliance with the Commission's interference protection standards. The DMA-based licensing approach set forth above imposes minimal burdens and costs and acknowledged the primacy of broadcast television vis-à-vis the television bands while allowing for innovative use of available spectrum by qualified low power device operators.

Respectfully submitted,

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