

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

In the Matter of )  
 )  
Third Periodic Review of the ) MB Docket No. 07-91  
Commission’s Rules and Policies )  
Affecting the Conversion )  
To Digital Television )

To: Secretary, FCC

**COMMENTS**

Greater Dayton Public Television, Inc., dba Think TV (“Think TV”), by its attorneys, provides these comments in response to the *Notice of Proposed Rulemaking* in the referenced docket, FCC 07-91 (released May 18, 2007) (“*NPRM*”).

Think TV applauds the FCC’s determination to have a strong DTV system in place across the country on the February 17, 2009 digital transition deadline, and it fully supports that goal. However, the FCC must resolve – **immediately** -- DTV channel, facility parameter, and construction permit issues for border-area stations with out-of-core interim DTV channels (like Think TV’s Station WPTD-DT) or face the very real prospect that many (according to the latest reports, WPTD-TV has over one million viewers every month) Think TV’s viewers will be without public television services after the analog giveback date.

Moreover, Think TV strongly urges the FCC to exercise its discretion under the law establishing the transition deadline to provide substantially more flexibility to stations regarding the process and timing to achieve their “ultimate” or “final” DTV transmission facilities. Think TV believes that stations should be accorded the maximum flexibility possible.

Specifically, with respect to Think TV's noncommercial educational TV Station WPTD-DT, Think TV urges the FCC to gain Canadian concurrence at the earliest possible date for the proposed final DTV channel assignment for WPTD-DT (Channel 16) and issue a construction permits right away. Without prompt action and issued permits, Think TV will be unable to meet the February 17, 2009 deadline. Furthermore, Think TV urges the FCC to recognize and accommodate the uniquely difficult circumstances that Think TV has faced in its efforts to construct its new DTV stations – one of which was assigned an “out of core” DTV channel and, therefore, had the expense and burden of not one, but two, DTV buildouts, a significant challenge for any broadcaster, let alone a public broadcaster in an era of diminished federal and state funding.

### **BACKGROUND**

Think TV, a 501(c)(3) nonprofit corporation, currently operates two NCE stations – WPTD-TV/DT, Dayton, Ohio and WPTO-TV/DT, Oxford, Ohio. Think TV is the PBS member station in the Dayton/Oxford areas, broadcasting a wide variety of high-quality news, public affairs, informational, educational and entertainment programming, including children's programming to Southwestern Ohio and West Central Ohio. Think TV is the most widely used nonprofit, educational and cultural service in southwestern Ohio. As explained above, each month, more than 1 million viewers watch Think TV. More than 1,000 schools serving more than 400,000 students, K-12, receive its daily educational programming and services. Think TV is funded by a public-private partnership including government support and community-based support from individuals, foundations and corporations.

WPTO-DT is already licensed and operating at full and final DTV Table facilities that match the FCC's Final DTV Table of Allotments. Thus, Think TV has no concerns about the DTV transition for that station.

However, WPTD-DT was allotted out of core Channel 58 for its interim DTV channel and, therefore elected to return to its analog Channel 16 for post-transition operation. WPTD-DT has noticed, however, that Appendix B to the Final DTV Table of Allotments lists an incorrect HAAT for WPTD-DT's final DTV facilities. The HAAT specified (320 m) is the HAAT of the side-mounted interim DTV antenna – the correct HAAT is 350 m, which corresponds to the current top-mounted analog antenna's HAAT. Think TV requests that the FCC correct the Final DTV Table with the appropriate HAAT.

For WPTD-DT, the planned return to the analog channel involves transmitter system modifications, as well as a planned antenna replacement. In order to accomplish that project, Think TV will need to operate its interim (Ch. 58) digital facilities at approximately 28% power during the time the transmitter system changes are implemented (presently estimated to take 2-4 weeks), so that the changes necessary for post-transition operations can be accomplished. Alternatively, Think TV would reduce both the existing analog and interim DTV channels power level to approximately 50% ERP for the period of time while the transmitter system modifications are implemented. Think TV is still evaluating these options, but either way, Think TV needs the flexibility to time analog or digital power reductions in the way that best advances its own transition schedule, without undue FCC oversight or hurdles.

Moreover, shortly after the transition deadline in February 2009, Think TV plans to replace its top-mounted antenna (which is presently used for analog operations and will be used for a short time for digital operations until it is replaced). The top-mounted antenna replacement

will require a temporary reduction in DTV operating power. Think TV plans to replace the interim side-mounted DTV antenna (for Ch. 58 interim operations) with a side-mounted standby antenna (for Ch. 16) for back up purposes. Once the standby antenna is in place, Think TV will need to operate – temporarily – with reduced DTV power during the time period that the top-mounted antenna is removed and replaced. Again, Think TV needs the FCC to be flexible in accommodating such lower power operations.

WPTD-DT was awarded a DDF Round 10 Grant Award of \$560,296 from the Corporation for Public Broadcasting for its return to analog. WPTD-DT just completed a revised construction schedule for its WPTD-DT “final” DTV buildout, as shown in the attached Exhibit. As the Exhibit makes clear, it is **critical** that the FCC move forward to complete Canadian concurrence and issue a permit to WPTD-DT for its post-transition facilities, otherwise there will not be sufficient time for WPTD-DT to complete construction before the analog turn off date.

## COMMENTS

- I. **The FCC must understand the critical timing issues facing Think TV, given its out of core interim DTV channel and lack of Canadian concurrence or permit for final DTV facility.**

With respect to Think TV, the allotment in the “Final” DTV Table of Allotments for its Station WPTD-DT is apparently still subject to Canadian clearance. According to ¶ 104 of the just-released *Seventh Report and Order and Eighth Further Notice of Proposed Rule Making* in MB Docket No. 87-268 (“Seventh Report and Order”), the FCC is “working to coordinate all Appendix B facilities as a group so that individual applications do not need to be coordinated.” Clearly, however, until the FCC can finally announce Canadian clearance on Think TV’s allotment and Think TV can file its applications and be authorized with fully-approved facilities specified for WPTD-DT, Think TV cannot finalize its plans and take concrete steps to construct

and operate its “final” DTV facilities. The uncertainty surrounding its allotment and Canadian clearance adversely affects the timing and process for Think TV’s buildout.

The FCC’s assignment of an out-of-core DTV channel substantially complicated Think TV’s DTV transition for its “interim” and “final” DTV channels, which transition had to be coordinated with various federal grant programs designed to provide funding for public television’s DTV transition. These grant programs require that a licensee have a construction permit “in hand” before the vast majority of funds can be released, which means that, until the FCC finalizes the DTV Table for border-areas stations like Think TV’s, Think TV cannot move forward. It is ludicrous to expect Think TV to expend thousands of dollars in state and federally-appropriated funds on channel-specific equipment until after the channels have received a final Canadian concurrence and the FCC has issued construction permits authorizing the buildouts.

Failure for the FCC to issue permits on an appropriate time table may well mean that Think TV “misses” the analog giveback date and that its viewers are without television services after February 17, 2009, given that WPTD-DT’s interim operation is on an out-of-core channel. In order for Think TV to successfully manage the amount of work necessary before the analog giveback date, Think TV needs the FCC to move forward – as soon as possible – to adopt a process and issue permits for Stations returning to analog channels. Since Think TV is presently operating DTV facilities on an out of core channel that must, under the statute, cease operations on the analog giveback date, it **must** be able to focus on the end game here, without undue FCC oversight after its permit is in hand, or face the very real problem that thousands of viewers will be without public television service after the analog giveback date.

**II. The FCC should be flexible in the process for and timing of construction of final DTV facilities.**

Think TV pledges to continue to use its best efforts, and devote all appropriate resources, to obtaining permission to construct, and actually constructing, the authorized facilities for its DTV Station WPTD-DT. However, as explained above, the FCC must do its part and expedite a permit on the “final” channel for Think TV’s out of core station WPTD-DT. Otherwise, all efforts are for naught.

Think TV strongly urges the FCC to exercise its discretion under the law establishing the February 17, 2009 digital transition deadline by providing substantial flexibility – the maximum flexibility possible -- to stations regarding the process for and timing of their achieving their “ultimate” or “final” DTV transmission facilities. There should be no requirement to achieve replication or maximized facilities (or such other facilities specified in the proposed DTV Table of Allotments) by any particular deadline, such as February 17, 2009, and certainly not earlier.

Clearly, the FCC has discretion to show such flexibility with respect to stations achieving their final replicating or maximized DTV facilities. The Digital Television and Public Safety Act of 2005, Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006), established February 17, 2009 as the deadline for the end of analog transmissions by all full power stations, and for the end of analog and digital transmissions on all out-of-core channels, but there is no requirement in the law, or even a suggestion, that the deadline needs to become a deadline as well for final DTV facilities.

Think TV urges that the FCC should take advantage of the flexibility in the law, by similarly according flexibility to stations to achieve their final DTV facilities at the time and in the manner that they are best able to do so.

For all these reasons, generally, Think TV urges the FCC to be as flexible as the law allows, focusing on identifying and addressing ways to facilitate a smooth transition in February of 2009, and facilitating each station's own path and timing in achieving its final DTV facilities.

**III. The FCC should permit Stations to decide how best to time analog power reductions or cessation, to facilitate the transition with the least possible disruption.**

As explained above, WPTD might need to reduce its analog power in order to complete construction of its post-transition DTV facilities. The FCC should accord stations the maximum flexibility to decide when and how best to reduce analog operations – based on what is best for that particular station in its particular market -- in order to be able to move toward post-transition facilities. In Think TV's situation, as a purely technical matter, reduction of analog service may be necessary before it can install and operate post-transition DTV facilities for WPTD-DT. While Think TV does not intend to terminate analog operations early, Think TV believes that a station, generally, should be permitted to terminate its analog operations, as it sees fit, based on what makes most sense in its situation. Thus, stations should have flexibility in order to permanently reduce or cease analog operations in anticipate of post-transition DTV operations.

**IV. The FCC should not require stations to construct facilities that precisely match the facilities specified in the Table of DTV Allotments.**

In paragraph 67 of the *NPRM*, the FCC suggests that all stations' constructed and licensed DTV facilities have to precisely match the facilities specified in the DTV Table of Allotments, and that such final DTV facilities will be constructed by the transition deadline.

As noted above, the DTV Table has the wrong HAAT for WPTD-DT and requires correction. Thus, Think TV may well need to construct DTV facilities that are not precisely the same as the facilities specified in the DTV Table. Think TV therefore urges the FCC to find a way to accommodate Think TV's needs in this process, either by recognizing that DTV facilities

do not need to precisely line up with those specified in the DTV Table, or making changes as necessary in the DTV Table.

**CONCLUSION**

Think TV urges the FCC to adopt flexible rules consistent with the comments above.

Respectfully submitted,

**GREATER DAYTON PUBLIC TELEVISION,  
INC.**

By:           /ss/ Margaret L. Miller \_\_\_\_\_  
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1	Greater Dayton Public Television (WPTD) Rechannelization Project	10/30/06	05/01/09
2	DDF Grantee Contract Execution	03/01/07	03/01/07
3	System design, Consultation & FCC application process	11/01/06	05/04/07
4	Apply for FCC construction permit	05/01/07	09/01/07
5	Prepare RFP for DTV STL System	10/01/07	11/01/07
6	Issue RFP for DTV STL System	11/01/07	12/01/07
7	Review Proposals for DTV STL System	12/01/07	01/03/08
8	Issue purchase order/down payment for DTV STL System	01/01/08	02/01/08
9	Prepare RFP for Antenna System and for Transmitter System Modifications	01/01/08	02/01/08
10	Installation of DTV STL System	<b>04/15/08</b>	<b>05/15/08</b>
11	Check-out, Testing & Activation of DTV STL System	<b>05/15/08</b>	<b>05/30/08</b>
12	Issue RFP for Antenna System and for Transmitter System Modifications	02/01/08	03/01/08
13	Review Proposals for Antenna System and for Transmitter System Modifications	03/01/08	03/15/08
14	Issue purchase order(s) to vendor(s) for Antenna System and for Transmitter System Modifications	03/15/08	05/01/08
15	Submit down payment(s) to vendor(s) for Antenna System and for Transmitter System Modifications	07/20/08	<b>07/31/08</b>
16	Installation of Transmitter System Modifications-Phase 1	01/05/09	01/31/09
17	Transmitter testing / Proof of Performance	02/02/09	02/04/09
18	Ready for transition	02/05/09	02/05/09
19	On air	02/17/09	02/17/09
20	Installation of Transmitter System Modifications-Phase 2	02/18/09	03/19/09
21	Installation of CH-16 DTV Antenna System	03/01/09	04/02/09
22	Project completion	05/01/09	05/01/09