

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

In the Matter of: )  
)  
Carriage of Digital Television Broadcast ) CS Docket No. 98-120  
Signals: Amendment to Part 76 of the )  
Commission's Rules )

**REPLY COMMENTS  
OF THE  
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT  
OF SMALL TELECOMMUNICATIONS COMPANIES**

**I. INTRODUCTION**

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)<sup>1</sup> hereby submits these reply comments in response to the Second Further Notice of Proposed Rulemaking in the above-captioned proceedings.<sup>2</sup> Video services are an increasingly important part of OPASTCO members' service offerings. Half of OPASTCO's members operate small cable television companies in their rural service areas. Often these communities are not lucrative enough to attract larger providers. Other OPASTCO members offer video services via digital subscriber line (DSL) technology in their ILEC service area, and/or in neighboring territories where they have overbuilt facilities in order to compete with the incumbent

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<sup>1</sup> OPASTCO is a national trade association representing over 520 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 3.5 million customers. All OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37).

<sup>2</sup> *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, CS Docket No. 98-120, Second Further Notice of Proposed Rulemaking, 22 FCC Rcd 8803 (rel. May 4, 2007) (Second FNPRM).

provider. Also, some OPASTCO members provide video satellite services, while an increasing number have deployed fiber to the home (FTTH) in an effort to offer an array of high-speed and advanced voice, data and video services to consumers.

The Second FNPRM seeks comment on the obligations of multichannel video programming distributors (MVPDs) after the transition from analog to digital television (DTV) broadcasting.<sup>3</sup> OPASTCO agrees with commenters who are opposed to revisions to the Commission's "material degradation" standard. Requiring small MVPDs to transmit all bits of a video signal could preclude the use of innovative compression and network management techniques that can facilitate the deployment of additional video and broadband services to rural consumers. Therefore, the Commission should simply retain its current parity obligation, which ensures that consumers receive the same signal quality from MVPDs as consumers watching over-the-air broadcasts.

## **II. THE COMMISSION SHOULD NOT REVISE ITS PREVIOUS STANDARD REGARDING MATERIAL DEGRADATION**

The Second FNPRM notes that the Commission is required by the Communications Act to ensure that MVPDs transmit local broadcast signals "without material degradation."<sup>4</sup> The Commission now proposes to move from a subjective to an objective measure of material degradation, and asks whether all broadcast bits must be transmitted to avoid material degradation.<sup>5</sup> The Commission had earlier determined that "...the issue of material degradation is about the picture quality the consumer receives and is capable of perceiving and not about the number of bits transmitted by the

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<sup>3</sup> Second FNPRM, ¶2.

<sup>4</sup> *Ibid.*, ¶10.

<sup>5</sup> *Id.*, ¶12.

broadcaster if the difference is not really perceptible to the viewer.”<sup>6</sup> Further, the Commission established a “parity obligation,” which requires MVPDs to provide the same quality of signal processing and carriage for broadcast signals as for any other kind of signal.<sup>7</sup>

The Second FNPRM seeks comment on these matters in anticipation of the transition from analog to digital television broadcasting, for which Congress has established a deadline of February 17, 2009.<sup>8</sup> However, commenting parties state that after the transition, the current parity obligation will remain sufficient to ensure that consumers will receive the same signal quality from MVPDs as consumers that watch broadcasts over the air.<sup>9</sup> Specifically, ACA states that the Second FNPRM provides no rationale for the Commission to alter its earlier finding that the measure of “material degradation” should be based on the picture seen by the viewer, and not the number of bits that are transmitted.<sup>10</sup> OPASTCO concurs that the picture received by the viewer, not the number of bits transmitted, should remain the FCC’s paramount consideration even after the digital transition.

### **III. THE COMMISSION SHOULD AVOID REGULATIONS THAT MAY IMPEDE THE PROVISION OF VIDEO SERVICES USING NEW BROADBAND TECHNOLOGIES**

AT&T and Qwest voice valid concerns that requirements on bit transmissions could impair an MVPD’s ability to deploy innovative compression technologies or utilize other techniques to ensure that customers can receive video signals in a more efficient

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<sup>6</sup> *Id.*, citing *First Report and Order*, 16 FCC Rcd 2629, ¶73.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*, ¶2.

<sup>9</sup> American Cable Association (ACA), p. 8; AT&T, p. 3; Qwest Communications International (Qwest), pp. 2-4.

<sup>10</sup> ACA, p. 8.

manner.<sup>11</sup> AT&T observes that video providers using the MPEG-2 compression standard require a 5-6 megabits per second (Mbps) connection to provide standard definition television, while high definition requires 18-20 Mbps. Even under the newer MPEG-4 compression standard, the requirements are 2-3 Mbps for standard definition and 6-10 Mbps for high definition.<sup>12</sup>

The Commission should consider that small MVPDs increasingly use broadband technologies to provide video to consumers. However, regulations that require the delivery of bits that are not necessary for picture quality could increase the amount of bandwidth necessary to deliver video, which would impede greater availability of broadband-based video services. This, in turn, would slow the deployment of additional and more robust broadband services.<sup>13</sup>

In order to provide sufficient bandwidth to deliver video services, a number of MVPDs use different varieties of DSL technology. For example, one of the first video platforms deployed by small LECs uses high speed digital subscriber line (VDSL) technology.<sup>14</sup> VDSL is one of the most distance-sensitive types of DSL, and data speeds dissipate rapidly as the signal travels from its source to the customer. Depending on the distances involved, small MVPDs that have deployed video over various types of DSL

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<sup>11</sup> AT&T, pp. 2-3; Qwest, pp. 3-4.

<sup>12</sup> AT&T, p. 3.

<sup>13</sup> Additionally, ACA filed comments on the Second FNPRM's Initial Regulatory Flexibility Analysis (IRFA), correctly stressing the need for alternative treatment of small MVPDs (ACA IRFA comments, p. 4.) OPASTCO notes that the IRFA did not include small LECs in section C, which describes the small entities to which the proposals will apply and estimates their numbers (Second FNPRM IRFA, ¶¶4-12). While rural LECs and their affiliates might arguably be included in other categories, this omission indicates that the impacts on the growing number of small LECs entering the MVPD market may not have been sufficiently considered.

<sup>14</sup> See, *Rural ATM Digital Video Providers Group Petition for Waiver of 47 C.F.R. § 76.1204(b)*, CSR - [\_\_\_\_], *Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation*, CS Docket No. 97-80 (fil. Apr. 2, 2007), p. 5.

may be challenged to deliver sufficient bandwidth to some of their customers to support high definition television, even if they can currently receive standard definition.<sup>15</sup> The Commission should not add to these challenges with requirements to deliver unnecessary bits.

The use of broadband technologies such as VDSL have permitted rural providers to bundle voice, data and video services together. Bundling results in higher residential broadband subscription rates which, in turn, spurs further investment in broadband infrastructure.<sup>16</sup> Requiring small MVPDs to deliver all digital broadcast bits, even if they are not necessary to maintain the current parity standard, would impede the ability of rural carriers to provide video services, and thus impede further broadband investment.

#### **IV. CONCLUSION**

The Commission should not impose a new bit-based standard of what constitutes “material degradation.” Instead, it should retain its current parity obligation to provide the same quality of signal processing and carriage for broadcast signals as for any other kind of signal. The record demonstrates that the Commission’s earlier determination that picture quality, not the number of bits transmitted, is the most relevant factor for consumers. In addition, the Commission should not impose a requirement to transmit all bits of a video signal. This would impede the ability of small MVPDs to deploy innovative compression technologies and other techniques that enable them to provide video to consumers, which in turn helps spur broadband penetration.

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<sup>15</sup> Qwest also notes that bandwidth is a “limited resource” even in high capacity systems. Qwest, p. 2.

<sup>16</sup> Chairman Martin has recognized that the “...ability to deploy broadband networks rapidly and the ability to offer video to consumers are linked intrinsically.” See Chairman Martin’s remarks to the Phoenix Center, Dec. 6, 2006, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-268845A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-268845A1.doc).

Respectfully submitted,

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August 16, 2007

**Certificate of Service**

I, Stephen Pastorkovich, hereby certify that copies of OPASTCO's comments were sent on this, the 16<sup>th</sup> day of August, 2007 by first class United States mail, postage prepaid, or via electronic mail, to those listed on the attached sheet.

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