

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Advanced Television Systems and)	MB Docket No. 87-268
Their Impact Upon the Existing)	
Television Broadcast Service)	
)	

To: The Commission

OPPOSITION TO PETITIONS FOR RECONSIDERATION

The Association for Maximum Service Television, Inc. (“MSTV”)¹ opposes the petitions for reconsideration filed by Hammett & Edison, Inc. (“Hammett & Edison”) and by National Public Radio, Inc. (“NPR”).² In the *Memorandum Opinion and Order on Reconsideration of the Seventh Report and Order*, the Commission reiterated “the importance of maintaining the reciprocal system of protections we established between television stations using channel 6 and noncommercial educational (“NCE”) FM radio stations.”³ It also affirmed the importance of retaining television broadcasting on channels 5 and 6. Continuing protection for core television broadcast spectrum, including channels 5 and 6, is critical to the success of the digital transition, and there is no basis for reconsidering these protections that the Commission has determined to provide.

¹ MSTV is a nonprofit trade association of local broadcast television stations committed to achieving and maintaining the highest technical quality for the local broadcast system.

² See Petitions for Reconsideration filed in MB Dkt No. 87-268 by Hammett & Edison (March 25, 2008) and by NPR (April 21, 2008).

³ See Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Memorandum Opinion and Order on Reconsideration of the Seventh Report and Order*, MB Docket No. 87-268, FCC 08-72, at para. 26 (rel. March 6, 2008) (“*Memorandum Opinion and Order*”).

Despite Hammett & Edison's inaccurate claim, it is well-established that § 73.525⁴ applies to DTV channel 6 stations. Ten years ago, referring to § 73.525, the Commission concluded that:

[a]nalysis by our staff indicates that the current rules for protection of analog TV channel 6 service from interference caused by FM radio service are adequate to protect DTV operations on existing analog channel 6 allotments as long as DTV coverage on these channels is the same as, or does not significantly exceed, the coverage of the analog service it would replace. The existing rules will similarly provide adequate protection for new DTV stations on new channel 6 allotments.⁵

Thus, whether the issue is protecting DTV stations moving to new channel 6 allotments or protecting DTV stations moving to channel 6 after the station's analog operations cease, the Commission has already determined § 73.525 is applicable.⁶

The Commission recently stated that “no changes in Section 73.525 governing TV channel 6 protection are necessary at this time.”⁷ It also has, as NPR noted, stated that it intends to “initiate a separate proceeding” to evaluate § 73.525 in light of the transition to digital television.⁸ Nothing in the Commission's statements in the digital audio broadcast (“DAB”)

⁴ 47 C.F.R. § 73.525.

⁵ In the Matter of Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service, *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, MM Docket No. 87-268, 13 FCC Rcd 7418, at para. 45 (1998) (“*Reconsideration of the Sixth Report and Order*”).

⁶ As the Commission noted, the protection for television stations is provided through minimum mileage spacings (or power limitations on co-located FM stations). *See id.* at n.30. There is no reason why such protections would not apply to DTV stations.

⁷ In the Matter of Digital Audio Broadcasting Systems And Their Impact on the Terrestrial Radio Broadcast Service, *Second Report and Order, First Order on Reconsideration, and Second Further Notice of Proposed Rulemaking*, MM Docket No. 99-325, 22 FCC Rcd 10344 at para. 96 (2007).

⁸ *Id.*

proceeding suggest that § 73.525 is inapplicable to DTV stations. The Commission has not yet commenced the separate proceeding to evaluate § 73.525. Thus, the rule—and the decade’s-old conclusion that it applies to DTV stations—still stands.

Finally, there is no basis for reconsidering the decision to retain channels 5 and 6 for television broadcast use. Ten years ago, in the *Reconsideration of the Sixth Report and Order*, the Commission:

determined that expanding the core to channels 2-6 would reduce the number of out-of-core allotments, promote competition in the provision of DTV services, help alleviate overall adjacent DTV channel interference, and, importantly, reduce the impact on low power television stations and translators who occupied a significant number of low VHF positions and who would otherwise have been displaced or lost the opportunity to utilize that spectrum.⁹

Presented with another request to remove channel 6 from the DTV spectrum, the Commission again demurred, reiterating its “continuing belief that channel 6 should stay available for television service and that the additional opportunities for noncommercial FM coverage through use of the channel were outweighed by the costs of eliminating it.”¹⁰ There simply is no basis for rehashing already-rejected arguments against the Commission’s “now well-established determination that the additional opportunities for increasing FM noncommercial coverage do not outweigh the costs of eliminating channel 6 from TV service.”¹¹ Further, the Commission’s conclusions with respect to channel 6 apply equally to channel 5.¹²

⁹ See *Memorandum Opinion and Order* at n.70.

¹⁰ *Id.*

¹¹ See *id.* at para. 27.

¹² See *id.* at n.73 (noting that a reallocation at this stage of the digital transition and displacing television stations would disrupt the complex DTV Table of Allotments process and the related international coordination process, inhibit the provision of 175 DTV allotments for new TV (continued...))

* * *

For the reasons discussed herein, MSTV respectfully requests that the Commission deny the Hammett & Edison and NPR Petitions and maintain existing protections for the public's over-the-air television programming on channels 5 and 6.

Respectfully submitted,

/s/ _____
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stations as required under the CBP Act, and harm the numerous Class A, low power TV, and TV translator stations that use these channels).

CERTIFICATE OF SERVICE

I, Kathryn Bowers, a secretary at the law firm of Covington & Burling LLP, do hereby certify that on this 20th day of May, 2008, I caused a copy of the foregoing "Opposition to Petitions for Reconsideration" to be sent via first-class U.S. Mail, postage prepaid, to the following:

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