

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

In the Matter of)	
)	
International Comparison and)	GN Docket No. 09-47
Consumer Survey Requirements in the)	
Broadband Data Improvement Act)	
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Deployment of Advanced Telecommunications)	GN Docket No. 09-137
Capability to All Americans in a Reasonable and)	
Timely Fashion, and Possible Steps to Accelerate)	
Such Deployment Pursuant to Section 706 of the)	
Telecommunications Act of 1996, As)	
Amended by the Broadband Data Improvement Act)	

COMMENTS — NBP PUBLIC NOTICE #26

COMMENTS OF HEARST TELEVISION INC.

Hearst Television Inc. (“Hearst”), by its attorneys, hereby submits comments in response to the Public Notice, Data Sought on Uses of Spectrum, NBP Public Notice #26, DA 09-2518 (released December 2, 2009) (“*Notice*”), in the above-referenced proceedings. The *Notice* seeks comment on the use of spectrum currently licensed to broadcast television stations.

Hearst owns and operates 35 full-power television stations, including six stations that operate as satellite stations. Hearst’s stations are located in 25 different television markets throughout the country, from Maine to Hawaii, and provide highly localized, award-winning service to approximately 55 million Americans (18.3% of television households).

Hearst’s stations are licensed not only to large urban cities, such as Boston (Station WCVB-TV), Pittsburgh (Station WTAE-TV), and Baltimore (Station WBAL-TV), but also to communities in television markets with large areas of sparse population or difficult terrain where cable service is not always available, such as Albuquerque (Station KOAT-TV), Carlsbad

(Station KOCT(TV)), and Silver City (Station KOVT(TV)), New Mexico; North Pole, New York (Station WPTZ(TV)) and Hartford, Vermont (Station WNNE(TV)); and Des Moines, Iowa (Station KCCI(TV)).

In the past dozen years, Hearst has spent more than \$120 million converting its stations to digital broadcasting. The company was an early pioneer in the DTV rollout through early investments in DTV conversion in its local markets, and its stations across the country are broadcasting prime time and major events in spectacular high-definition format. Hearst also pioneered local high-definition production: Station WCVB-TV, Boston, began producing HD episodes of its award-winning, highly-rated local public affairs program, *Chronicle*, in 1998, and it continues to produce special HD editions today. Certain of Hearst's stations produce daily local news programs in HD to provide viewers with the highest quality digital and HD programming that has long been the promise of the DTV transition. In fact, Hearst's stations produce more than 750 hours *per week* of regularly-scheduled news and public affairs programming as well as thousands more hours per year of political debates, news specials, breaking news coverage, and emergency weather events.

In addition, the company sent special reporting teams to the 2004 Summer Olympics in Athens and the 2008 Summer Olympics in Beijing and will be sending a contingent of reporters and cameramen to Vancouver for the 2010 Winter Olympics. These teams produce additional HD content, often of specific local interest, for Hearst's viewers in its markets around the country. For example, during the 2008 Summer Olympics, Station WBAL-TV, Baltimore, had special coverage of hometown swimmer Michael Phelps, who gave his first interview to the Hearst team.

In addition to HD content, Hearst's stations are, or will in the near future be, fully utilizing the 19.4 Mbps bandwidth afforded by the 6 MHz of spectrum licensed for each

television broadcast channel. For example, in the Ft. Smith-Fayetteville-Springdale-Rogers DMA, Hearst's Stations KHBS(TV) and KHOG-TV broadcast ABC network programming on their primary channels and CW Plus network programming on multicast channels. Without the ability to broadcast these multicast channels, viewers in this western Arkansas television market would be unable to watch such hit shows as *Gossip Girl* and *America's Next Top Model*, which are particularly popular with younger female viewers.

In four markets—Orlando-Daytona Beach-Melbourne (Station WKCF(TV)); Tampa-St. Petersburg (Station WMOR-TV); West Palm Beach-Ft. Pierce (Station WPBF(TV)); and Albuquerque-Santa Fe (Stations KOAT-TV, KOCT(TV), and KOVT(TV))¹—Hearst's stations broadcast the new Estrella TV Spanish-language programming service on multicast channels. Each of these television markets has a significant population of viewers of Hispanic or Latino origin, and the multicast channel allows Hearst's stations to meet the needs of this community at the same time that they are broadcasting programming that may appeal to different audiences on their primary channels.

In eight markets—Sacramento-Stockton-Modesto (Station KQCA(TV)); Orlando-Daytona Beach-Melbourne (Station WKCF(TV)); Tampa-St. Petersburg (Station WMOR-TV); Kansas City (Station KCWE(TV)); Greensboro-High Point-Winston Salem (Station WXII-TV); Pittsburgh (Station WTAE-TV); Harrisburg-Lancaster-Lebanon-York (Station WGAL(TV)); and Burlington-Plattsburgh (Stations WPTZ(TV) and WNNE(TV))—Hearst's stations broadcast the

¹ In the Albuquerque-Santa Fe DMA, not only does Hearst's Station KOAT-TV broadcast the Estrella TV network on a multicast channel, but so, too, do its two full power satellite stations, KOCT(TV), Carlsbad, New Mexico, on Channel 6.2 and KOVT(TV), Silver City, New Mexico, on Channel 10.2, thereby providing this important Spanish-language programming service over-the-air throughout New Mexico to its predominately Hispanic population.

new THiStv programming service on multicast channels. THiStv provides viewers with a mix of movies, as well as the opportunity to provide additional local programming content.

In 13 markets—Sacramento-Stockton-Modesto (Station KCRA-TV); Orlando-Daytona Beach-Melbourne (Station WESH(TV)); Baltimore (Station WBAL-TV); Cincinnati (Station WLWT(TV)); Greenville-Spartanburg-Asheville-Anderson (Station WYFF(TV)); Monterey-Salinas (Station KSBW(TV)); Kansas City (Station KMBC-TV); Oklahoma City (Station KOCO-TV); New Orleans (Station WDSU(TV)); Honolulu (Station KITV(TV)); Portland-Auburn (Station WMTW(TV)); Omaha (Station KETV(TV)); and Des Moines-Ames (Station KCCI(TV))—the stations provide 24/7 weather coverage on multicast weather channels. Previously, Hearst’s ten NBC affiliates programmed the NBC Weather Plus multicast service while that service was available. In addition to this continuous weather coverage on a multicast basis, during extensive weather events Hearst stations utilize the two program streams—the primary and the multicast—to “switch” programming between the two streams. Thus, for example, Station WLWT(TV) may “preempt” its regularly-scheduled programming on its primary channel to provide continuous coverage of the weather event but broadcast that regular programming on its multicast channel during the weather event for those viewers who prefer to switch back and forth between the weather reporting and the regular programming.

In two markets—Orlando-Daytona Beach-Melbourne and Tampa-St. Petersburg—Hearst’s stations broadcast three channels of programming on a full-time basis: Both Station WKCF(TV), a CW affiliate, and Station WMOR-TV, an independent station, broadcast a mix of local, national, and syndicated programming on their primary channels and broadcast Estrella TV and THiStv on two multicast channels.

In addition to these 26 examples of full-time multicast channels, Hearst owns ten stations affiliated with the NBC television network and two stations affiliated with the CBS network.

These stations broadcast occasional-use multicast channels for special events such as the Olympics and the NCAA “March Madness” basketball tournament.

These various multicast channels not only offer free, unique, additional programming, providing viewers with a plethora of choices without the necessity of paying for a subscription service, but each of these multicast channels are subject to the Commission’s public interest obligations. Thus, each of these multicast channels provides at least three hours each week of children’s programming, the vast majority of whose content is different than, and which is often broadcast at different times than, the children’s programming broadcast on the stations’ primary channel. These multicast channels also carry EAS and Amber alerts that viewers watching them might otherwise not see. Moreover, many cable operators and the two national satellite carriers, DIRECTV and DISH Network, do not have the technical capability to retransmit most of these multicast channels. Thus, the multicast channels provide a diversity of informational and entertainment programming that television viewers would otherwise be forced to forego.

Many of these multicast services are brand new, with both THISTv and Estrella TV becoming available in 2009. While all full-power television stations ceased analog broadcasting on June 12, 2009, that was really only the *beginning* of the transition to digital broadcasting. Broadcasters must be given the opportunity to develop business and technological models for the bandwidth available in each station’s 6 MHz channel. And the fact that the real beginning of digital broadcasting has taken place in the worst economic environment since the Great Depression should not be held against broadcasters who, despite all of the heat—but little light—cast upon the retransmission consent process, offer free local news, free local emergency information, and free local political coverage based primarily upon the single revenue stream generated from advertisers seeking to communicate with potential customers.

Not only is Hearst utilizing its stations' broadcast channels' spectrum for HD content and multicasts, but Hearst is also a member of the Open Mobile Video Coalition and, together with several other broadcast television groups, is actively seeking to work with wireless carriers, mobile device manufacturers, retailers, other content providers, and advertisers to utilize a portion of each station's bandwidth for delivering broadcast television and other content to mobile devices. The ATSC-M/H standard will require approximately 5 Mbps of bandwidth to deliver spectacular HD and other content to smart phones, laptops and netbooks, and receivers in cars and buses.

Hearst has participated in, and continues to examine, alternative uses of broadcast spectrum as well. Hearst was an investor in the USDTV multichannel video distribution platform which aggregated broadcast spectrum in television markets such as Albuquerque-Santa Fe and Las Vegas to provide a wireless "cable service" to subscribers as an alternative to substantially higher-priced competitors such as traditional cable systems and satellite carriers. While the USDTV service appears to have been ahead of its time, Hearst notes that a conceptually similar service operated by Sezmi Corporation has begun experimental trials in Los Angeles.

Similarly, in the late 1990s, Hearst was an investor in Geocast Network Systems, a venture that attempted to aggregate digital broadcast bandwidth on a national scale in order to provide a national, media-rich program service to computer users throughout the country. Geocast did not succeed, and Hearst had to write off its investment in the venture. But the point is that Hearst has always been forward-thinking about uses of its stations' spectrum. Clearly, not all ideas will pan out, but broadcasters, such as Hearst, will continue to innovate and find new uses of broadcast spectrum that will benefit consumers.

Hearst is not only a leading innovator in the technological uses of bandwidth and an early adopter of state-of-the-art digital equipment, but it has long been recognized as a leader in its television markets with respect to local news coverage and public service. Over the past five years, Hearst's stations have won more than 1,200 awards for their news and public service, including more than 50 national awards. Hearst stations have been honored with multiple Walter Cronkite Awards, the premier honor for political-news reporting, multiple duPont-Columbia Journalism Awards, and multiple Peabody Awards. Hearst stations have also won numerous National Headliner Awards, regional EMMYs and Edward R. Murrow Awards, and "Best Newscast" and "Station of the Year" honors.

One example of Hearst's exemplary public service is the vital around-the-clock coverage that Station WDSU(TV), New Orleans, provided during Hurricane Katrina and its aftermath. Despite its own personnel suffering devastating damage to their own homes, the station provided critical information for citizens and first responders alike during this unprecedented emergency. Another example is the in-depth coverage provided earlier this year by Station WCVB-TV, Boston, of Senator Edward Kennedy's death and funeral, including detailed assessments of the late Senator's life and accomplishments. WCVB preempted all regular programming to provide this coverage that was so important to many grieving citizens who had been touched by Senator Kennedy's many years of public service.

In addition, Hearst's stations, like many television stations across the country, provided extensive, around-the-clock coverage of the tragic events of 9/11 and their aftermath. For weeks after that fateful day, stations preempted regular coverage, including all advertising, for this exhaustive public service. The loss of revenue for Hearst alone was approximately \$20 million, but Hearst, like numerous other broadcasters nationwide, takes seriously its obligation to serve the American people.

This unique public service will not—and cannot—be replicated by those wireless broadband services that purport to want to “reclaim” broadcast television spectrum. Television broadcasting is a highly efficient point-to-multipoint service. It is virtually universal—now. It is what economists call a “public good”—i.e., the consumption of broadcast television by one individual does not reduce its availability to be consumed by others and its consumption by one or many viewers does not exclude other viewers from using the good. It does not require additional infrastructure. It does not result in “network congestion.” It does not require network neutrality rules to prevent discrimination in access. It does not require a subscription. It does, however, provide a highly localized service consisting of news, emergency, public affairs, political, children’s, and other entertainment and informational programming that is costly to produce. These existing services, which approximately half of all viewers watch at any given instant, and newer services, such as Mobile TV, simply cannot subsist on reduced spectrum.

Conclusion

For the foregoing reasons, as well as those set forth by NAB and MSTV in their comments in these proceedings, television broadcasters provide a unique, and uniquely important, service to the American public that cannot be replicated by other delivery means. It is not only premature, but shortsighted, to begin to contemplate stripping television stations of spectrum to provide that spectrum for speculative future needs, when other spectrum either lies fallow or is underutilized and when the totality of television broadcast spectrum, 294 MHz, scattered over a variety of bands (low VHF, high VHF, and UHF), is but a fraction of the claimed spectrum needs of the would-be licensees of this scarce resource. Hearst respectfully urges the Commission to preserve the ability of broadcast stations to utilize fully the bandwidth contained in each television channel’s 6 MHz of spectrum and, thereby, to continue the rich

