

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

In the Matter of)
)
Amendment of Parts 73 and 74 of the) MB Docket No. 03-185
Commission’s Rules to Establish Rules for)
Digital Low Power Television, Television)
Translator, and Television Booster Stations,)
and to Amend Rules for Digital Class A)
Television Stations)

Directed to: The Commission

COMMENTS OF LIBERTY UNIVERSITY, INC.

Liberty University, Inc. (“Liberty”), licensee of Class A television station WTLU-CA and digital companion channel WTLU-LD, both Lynchburg, Virginia, by its attorneys, hereby respectfully submits its Comments in response to the *Further Notice of Proposed Rule Making and Memorandum Opinion and Order* FCC 10-172, released September 17, 2010 (*FNPRM*), in the above-captioned proceeding, which seeks to establish rules and procedures for the transition of Class A television stations, low power television (“LPTV”) stations, television translator stations, and television booster stations to all-digital operation. With respect thereto, the following is submitted:

As noted above, Liberty is the licensee of a Class A television station and its digital companion channel, WTLU-CA and WTLU-LD. Both of these stations are licensed to Lynchburg, Virginia, and operate in the Roanoke-Lynchburg DMA. At this time, WTLU-CA enjoys primary, protected status as a Class A television station, but its digital companion channel does not. Liberty is now anxious to move forward to complete its transition to digital operation, but it also seeks to ensure the maintenance of its station’s Class A protected status.

When the Commission first adopted rules for the DTV transition of LPTV and Class A television stations, it determined that those stations that were issued a license for a digital companion channel would, at some point, be required to choose which of the channels they would retain as their permanent channel for digital operations and to surrender the other channel. *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, 19 FCC Rcd 19331, 19382 (2004) (“*Digital LPTV Order*”). At that time, the Commission further stated that “Class A station licensees are guaranteed primary status on the channel they ultimately choose to retain for digital operations.” *Id.* at 10381-2. A determination of the exact process by which the election would be made was left for a future time, however.

Liberty submits that the time at which that process should be put into place is now. With the full-power DTV transition now more than eighteen months in the past, it is time for Class A stations in particular to be able to join fully in the digital broadcasting age without being required to keep one foot in the analog past. The benefits of making this move, which would allow for the elimination of a duplicative transmitter, are substantial. Not only would licensees such as Liberty be able to save the expenses now associated with operation of its analog transmitter, but considerable spectrum also would be freed by the near-term surrender of the analog channels. Further, the funds saved could be used by the licensees to improve their programming, including their local programming. While Liberty recognizes that some Class A stations may not yet be ready to make the jump to all-digital operation, that is no reason to hold back those stations that are ready.

During the full-power DTV transition, the Commission sought to maintain one, fixed date on which the bulk of stations would move to digital-only operation. Some variations, however, were necessarily allowed due to both technical considerations and the last-minute postponement of the deadline. The same considerations that made a near-universal deadline desirable for the full-power transition have become largely inapplicable. As noted above, more than eighteen months have now passed since that transition. Consumers have become substantially more familiar with DTV. Further, any viewer that watches any full-power television station had had to make arrangements for reception of a digital service, whether through the purchase of a DTV receiver, use of a converter box, or subscription to a multichannel video provider. Thus, viewers necessarily are now able to deal with both analog and digital broadcasts.

Moreover, the Commission has already endorsed the concept of a gradual transition for LPTV stations in the *FNPRM* by stating that it wishes to provide flexibility for LPTV stations to decide to operate in analog-only before the transition deadline. Indeed, many LPTV and TV translator stations have already taken advantage of the ability to flash-cut to digital operation on their current channels. The same opportunity should be afforded to Class A television stations without fear of the loss of their Class A protected status. Indeed, at this point in time, it is only Class A stations that are effectively precluded from making the final switch to their digital channels due to the secondary status of the digital companion channels. While an LPTV station operating with a digital companion channel is allowed to cease operations on its analog channel without penalty, for a Class A television station, the only channel with Class A status and protections is the analog channel. Liberty understands the Commission's policy decision not to create additional Class A channels at this point, but there needs to be a mechanism by which the

Class A designation may be moved from the analog to the digital companion channel as soon as possible.

The public interest advantages of allowing those Class A stations that are ready to make the switch to digital-only operation to do so are significant. Among the most important benefits to the Class A licensee would be the ability to terminate the operations of its now-duplicative analog channel. The costs of continuing such operations, in terms of both the electrical power needed to broadcast and the maintenance of equipment soon to be phased out, are substantial. It should be remembered that Class A stations are essentially a hybrid of full-service television and LPTV stations. In return for primary status, Class A stations are required to meet certain minimum operating standards, including the broadcasting of locally produced programming. The funds no longer needed for analog operation could be spent far more productively on local programming, to improve either its quality or its quantity above the minimum. Even if the reduction in expenses simply helped to keep the Class A station operational, the community would benefit from the improved financial health of its community Class A station.

Significant technical improvements also could be made possible by the ability to turn off and remove the analog antenna from the technical plant. This removal could free up tower space or eliminate excess loading issues. As a result, stations might be able to add heavier, higher powered antennas for the digital operation. As a result, such stations would be able either to serve more people, or to serve existing viewers with a better signal, or both.

Another public interest advantage would be the early return of one of the two channels currently occupied by any Class A station with a digital companion channel. More spectrum thus would become available for use, whether as a displacement channel for another station or as a part of the national broadband plan. While the spectrum would be freed gradually as Class A

stations made their transitions when ready, as a practical matter, the speed with which the channels would be freed by the digital transition is likely to be greater than that with which they would be made available in any other manner. Moreover, the channels that would be made available first are likely to be in the areas of greatest spectrum need, the larger markets. It is in the larger markets with greater resources that Class A stations are most likely to be technically ready to proceed with the digital transition and to have viewers that also are prepared. Therefore, if allowed to proceed with digital-only operation while maintaining primary status, Class A stations would return channels just where their spectrum is most needed.

Further, allowing Class A and LPTV stations to transition to digital-only operation in a gradual manner, beginning immediately and continuing until whatever deadline is set by the Commission, would have the advantage of permitting licensees to tailor their choice of transition date to conditions in their own local markets. As became clear during the full-power DTV transition, the readiness of most viewers to make the jump to DTV depends on conditions in each local market, and no Class A or LPTV station wants to leave its viewers behind. Therefore, a one-size-fits-all approach would be counterproductive. For example, viewers outside of major cities, with no local, full-power TV stations that can be viewed over-the-air, might well continue to rely upon the analog broadcasts of Class A, LPTV, and television translator stations for their TV service. On the other hand, in areas such as Lynchburg, in which there is some local full-power TV service mixed with Class A, LPTV, and translator stations to provide additional service, viewers are less likely to be reliant on analog broadcasts, as they already will have had to make arrangements to receive the digital broadcasts of the full-power station or stations. Therefore, a market-wide change to all-digital operations would be a benefit in the latter type of

situation but would create significant disruption in the former, more rural type of market. The ability to adjust according to local circumstances clearly would further the public interest.

The Commission has sought comment on its proposed method whereby a Class A station may obtain protected, Class A status for its digital operations by filing a minor modification application to specify either continued operation on its current digital channel or a flash-cut on its current analog channel. Liberty supports the simplest and most efficient method possible for effectuating the digital conversion of Class A stations. It must be remembered that Class A stations operating a digital companion channel have already sought a construction permit for such facilities, have built and, in many cases, licensed them, and are operating them now. The only change for such stations is the addition of the Class A designation. No further expenditures beyond the substantial investments already made to obtain an authorization and build the separate digital facilities should be required. The Commission's engineering staff has already examined the digital channel's proposed technical facilities and found them acceptable as a companion channel for a Class A station and not predicted to cause prohibited interference.

Therefore, Class A stations seeking to continue post-transition operations on their current digital channels should be allowed simply to file a license application to change the Class A status to that status. Such a procedure is particularly appropriate in light of the fact that there would be no change whatsoever in the technical operation of the station. To the extent that there might be some minor deviation between the authorized facilities and Class A interference standards, the existing technical operation should be grandfathered so long as there is no increase in the amount of interference. Such treatment would recognize the substantial investment already made in the digital transition by the Class A station, which generally operates as a community station with limited funds. Such a community station has already expended

substantial funds to build a second and largely redundant technical plant in order to advance the digital transition, and no further expenditures should be required. Rather, in recognition of this significant contribution to serve the public interest, a Class A station remaining on its digital companion channel should be allowed to maintain the technical status quo.

The Commission has requested comment as to whether not only Class A stations but also LPTV stations preparing to switch to all-digital operation should be required to notify their viewers as full-power television stations were. Liberty submits that such a formal and lengthy notification system should not be required, particularly in the case of LPTV stations that might not have the ready ability to originate programming. At this point in time, the public is generally aware of the DTV transition. As noted above, most viewers already have at least some experience with making that change and therefore do not need extensive education in how it is to be accomplished. Thus, there is no need for the Commission to mandate an extensive set of informative announcements nor to dictate in detail the content of such announcements.

In the real world, however, stations that can feasibly inform their viewers of the impending digital transition will do so. No station wishes to lose viewers as the result of an inability to find the station after DTV transition. Therefore, each Class A and LPTV station has a substantial incentive to ensure that the public is well-informed as to its transition plans and how to continue to receive the station. Television translator stations with no ability to originate announcements should be free to find the best means possible to alert their audience to the coming change after consideration of their particular circumstances.

Whatever procedures the Commission decides to adopt in this proceeding, however, Liberty urges it to do so quickly and to allow the digital transition to proceed immediately. For this purpose, it does not matter whether a final deadline is established in the near term or whether

a later deadline is set to allow more time for more rural stations to make the transition. Rather, what is important is that the Commission allow the process to commence at once so that stations that are ready to make the switch may assist in moving the final stations of the DTV transition to their completion.

Respectfully submitted,

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