

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

In the Matter of)
)
Implementation of the Commercial Advertisement) MB Docket No. 11-93
Loudness Mitigation (CALM) Act)

**COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (NAB)¹ submits these brief comments on proposed minor rule changes reflecting the Advanced Television System Committee's (ATSC) revised technical standards for loudness measurement.² As discussed below, NAB supports the Commission's proposed approach to implementing the revised standards.

The Commercial Advertisement Loudness Mitigation (CALM) Act required that the Commission incorporate into its rules the ATSC's standards for monitoring and controlling the loudness of TV programming in place at the time, specifically, the ATSC's A/85 Recommended Practice (A/85 RP).³ The Commission codified these standards in December 2012.⁴ The statute further mandated that the Commission

¹ NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

² *Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act*; Order and Further Notice of Proposed Rulemaking, MB Docket No. 11-93 (*rel. Nov. 1, 2013*) (Notice).

³ 47 U.S.C. § 621(a).

⁴ *Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act*, Report and Order, MB Docket No. 11-93, 26 FCC Rcd 17222, 17236 (2011) (CALM Act Report and Order).

incorporate into its rules “any successor” to the A/85 RP.⁵ On March 12, 2013, the ATSC published a successor document to the A/85 RP that applies an improved algorithm for loudness measurement (Successor RP). Pursuant to the CALM Act, the Commission intends to adopt the Successor RP, but seeks comment on the costs and appropriate timing associated with implementing the new standard. Notice at ¶¶ 4-5.

The Notice recognizes that some entities, including television broadcast stations, may need to upgrade their software or equipment to comply with the new ATSC standard. *Id.* at ¶ 6. This additional obligation arises soon after some broadcasters purchased new equipment to comply with the A/85 RP. NAB therefore agrees with the Commission that a reasonable period of time should be allowed for television stations and other entities to budget for and implement further changes needed to comply with the Successor RP. *Id.* at ¶ 6.

NAB has surveyed a number of our television members, and learned that most equipment deployed to comply with the A/85 RP can likely be modified through relatively low-cost software upgrades to comply with the Successor RP. For stations that are able to comply with the Successor RP through a software upgrade, NAB supports the Commission’s proposed deadline of one year from the release date of the Report and Order in this proceeding as a realistic time frame that appropriately balances consumers’ interests in timely implementation of the Successor RP while permitting appropriate planning and execution for television stations. *Id.* It is our

⁵ 47 U.S.C. § 621(a).

understanding that most, if not all, of those television stations should be able to comply with the Successor RP by such a deadline.⁶

However, as the Notice acknowledges, there may be circumstances where certain equipment may not be easily upgraded to comply with the Successor RP, and for some entities, it may even be necessary to purchase new equipment. *Id.* at ¶¶ 6. Indeed, NAB has heard that one manufacturer of A/85 RP-compliant equipment has ceased operations, meaning that television stations with equipment from this vendor may be forced to purchase new replacement equipment from another company to comply with the Successor RP.

When enacting the CALM Act, Congress estimated that the cost of equipment controlling the volume of programming may range from a few thousand dollars to approximately \$20,000 per device, depending on the method used to comply with the mandate.⁷ Implementing the A/85 RP has proven to be a challenge for some entities, as demonstrated by the numerous requests for financial hardship waivers submitted to the Commission, and renewals of such waivers.⁸ Implementing the Successor RP may impose a similar burden on some entities, including television stations that are unable to comply with the Successor RP through a software upgrade.

Accordingly, stations that must purchase new equipment may need additional time to comply with the Successor RP. These stations will need to determine their

⁶ NAB also supports the Commission's proposal to allow stations to implement the Successor RP early, without having to make an additional showing or request a waiver of existing rules. Notice at ¶¶ 7.

⁷ *Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act*; Notice of Proposed Rulemaking, MB Docket No. 11-93, 26 FCC Rcd 8281, 8293 (2011) at n.73 *citing* Senate Commerce, Science, and Transportation Committee Report dated Sept. 29, 2010, accompanying Senate Bill, S. 2847, 111th Cong. (2010), S. REP. 111-340, at 3.

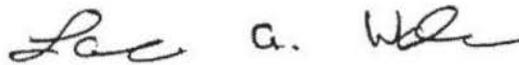
⁸ See the Commission's docket for this rulemaking proceeding, available at http://apps.fcc.gov/ecfs/comment_search/paginate?pageSize=100.

equipment needs, and purchase and install the new equipment. This process will also implicate budgetary planning, as television stations have already finalized their budgets for 2014. For these reasons, NAB urges the Commission to clarify that it will look favorably upon requests for waivers for extension of time to comply with the Successor RP by stations needing to purchase new equipment. We believe allowing such additional time in limited circumstances will allow remaining television stations to fulfill their obligations under the CALM Act and the Commission's rules.

For the reasons stated above, NAB supports the proposed approach for adopting the ATSC's Successor RP, subject to extensions of time for entities needing to purchase new equipment to comply with the Successor RP.

Respectfully submitted,

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