



# PUBLIC NOTICE

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## **MEDIA BUREAU SEEKS COMMENT ON PETITION FOR DECLARATORY RULING AND PETITION FOR RULEMAKING OF THE NATIONAL ASSOCIATION OF BROADCASTERS SEEKING TO CLARIFY TREATMENT OF MULTICAST STREAMS UNDER THE NEXT GEN TV LOCAL SIMULCASTING RULES**

**GN Docket No. 16-142**

**Comment Date: December 24, 2020**  
**Reply Comment Date: January 25, 2021**

By this Public Notice, we seek comment on the Petition for Declaratory Ruling and Petition for Rulemaking (Petition) filed by the National Association of Broadcasters (NAB or Petitioner) on November 9, 2020.<sup>1</sup> The Petition asks the Commission to clarify and, to the extent necessary, change the licensing treatment of a Next Gen TV<sup>2</sup> stations' multicast streams under the Next Gen TV local simulcasting rules.<sup>3</sup>

First, Petitioner asks the Commission to clarify that the existing licensing framework for local simulcasting applies to a station's simulcasted multicast streams as well as its primary

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<sup>1</sup> Petition for Declaratory Ruling and Petition for Rulemaking of the National Association of Broadcasters, GN Docket No. 16-142 (filed Nov. 9, 2020) (Petition).

<sup>2</sup> "Next Gen TV" or "ATSC 3.0" refers to the new broadcast television transmission standard developed by the Advanced Television Systems Committee as the world's first Internet Protocol (IP)-based broadcast transmission platform. In the *Next Gen TV Report and Order*, the Commission authorized television broadcasters to use the Next Gen TV transmission standard on a voluntary, market-driven basis. See *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930, 9931, para. 1 (2017) (*Next Gen TV Report and Order and Further Notice*).

<sup>3</sup> See 47 CFR §§ 73.3801, 73.6029, 74.782. The Commission required that broadcasters deploying ATSC 3.0 generally must continue to deliver current-generation digital television (DTV) service, using the ATSC 1.0 transmission standard to their viewers through local simulcasting. *Next Gen TV Report and Order*, 32 FCC Rcd at 9931, para. 1. The local simulcasting rules allow television broadcast stations to partner with one or more other stations in a simulcasting arrangement for purposes of airing either an ATSC 1.0 or ATSC 3.0 signal on the facilities of a host station (*i.e.*, a station whose facilities are being used to transmit programming originated by another station). See 47 CFR §§ 73.3801(a), 73.6029(a), 74.782(a). The local simulcasting rules require a television broadcast station that chooses to air an ATSC 3.0 signal to simulcast the primary video programming stream of that signal in an ATSC 1.0 format. See 47 CFR §§ 73.3801(b), 73.6029(b), 74.782(b). This requirement does not apply to any multicast streams aired on the ATSC 3.0 channel. *Id.* See *Next Gen TV Report and Order*, 32 FCC Rcd at 9937-38, para. 13, n.40 (stating that Next Gen TV Broadcasters are not required to simulcast or continue airing their existing multicast streams).

stream.<sup>4</sup> Second, Petitioner asks the Commission to clarify, or establish by rulemaking if necessary, that the existing licensing framework for local simulcasting applies to multicast streams, even if such streams are not aired by the originating station.<sup>5</sup> Essentially, NAB asks the Commission to recognize that in simulcasting arrangements involving multicast streams, “the licensee who originated the programming rather than the licensee whose facilities are being used to distribute the programming is responsible for the programming.”<sup>6</sup>

NAB states that “some stations have concerns about which station is liable for any potential violations of Commission rules”<sup>7</sup> and further observes that “a purely contractual approach [to ATSC 3.0 deployment sharing arrangements] would exclude noncommercial stations from participating in sharing arrangements to host commercial multicast streams” under section 399B of the Communications Act.<sup>8</sup> NAB contends that the requested clarification or amendment of the Commission’s rules “would provide a clear line of Commission authority over the originator of multicast streams (regardless of whether they are simulcast) through the same licensed approach the Commission uses for simulcast programming” and thus “is critical to

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<sup>4</sup> Petition at 3. Petitioner “request[s] the Commission to clarify that the term ‘simulcasting arrangements’ as used in the FCC’s orders and rules refers to arrangements necessary to give effect to the FCC’s rules requiring simulcasting of the primary video stream and to preserve a station’s ATSC 1.0 multicast streams where possible. In particular, the FCC should clarify that Section 73.3801 of the Commission’s rules permits a station to partner with one or more other stations that would host the first station’s ATSC 1.0 multicast streams in simulcast to preserve existing service in the market.” *Id.* at 4. *See also* 47 CFR §§ 73.3801(f), 73.6029(f), 74.782(g) (stating that “ATSC 1.0 and ATSC 3.0 signals aired on the facilities of a host station will be licensed as temporary second channels of the originating station”).

<sup>5</sup> *Id.* at 5. Specifically, Petitioner urges the Commission to “commence a proceeding to clarify the regulatory treatment of an ATSC 3.0 station’s multicast streams hosted on an ATSC 1.0 station regardless of whether those streams are simulcast. That treatment should mirror the licensed framework the Commission currently employs with respect to simulcast programming streams.” *Id.*

<sup>6</sup> *Id.* at 2. NAB provides the following examples of potential carriage arrangements among stations that are parties to an ATSC 3.0 deployment plan:

- A station transmitting in ATSC 3.0 that has its primary, simulcast stream hosted on ATSC 1.0 Station A, and also has multicast streams, that are not transmitted in ATSC 3.0, hosted on Station A.
- A station transmitting in ATSC 3.0 that has its primary, simulcast stream hosted on ATSC 1.0 Station A; a multicast stream transmitted only in ATSC 1.0 hosted on ATSC 1.0 Station B; and a multicast stream transmitted only in ATSC 1.0 hosted on ATSC 1.0 Station C.
- A station transmitting in ATSC 1.0 that will simulcast some of its programming on ATSC 3.0 Station A, and some of its programming on ATSC 3.0 Station B, potentially including 3.0 multicast streams that are not simulcast in ATSC 1.0.
- A station transmitting in ATSC 3.0 that has its primary, simulcast stream as well as a multicast stream hosted on ATSC 1.0 Station A where, to have capacity to carry those streams Station A must arrange for one of its multicast streams to be hosted on ATSC 1.0 Station B.

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *See id.* at 3 and 5-6; 47 U.S.C. § 399B (prohibiting noncommercial stations from making their “facilities available to any person for the broadcasting of any advertisement”).

ensuring that both commercial and noncommercial stations are willing and able to partner to help preserve service to viewers.”<sup>9</sup>

The Petition is available electronically through the Commission’s Electronic Comment Filing System (ECFS) under the above-referenced docket numbers, which may be accessed on the Commission’s Internet website at <http://apps.fcc.gov/ecfs/>.

Filing Requirements. Pursuant to sections 1.415 and 1.419 of the Commission’s rules,<sup>10</sup> interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the ECFS.<sup>11</sup>

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.<sup>12</sup>
- During the time the Commission’s building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

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<sup>9</sup> Petition at 6-7. Petitioner states that its requested clarification (or rule change) would not create new carriage rights for multicast streams, which are not entitled to carriage pursuant to the must carry regime. *Id.* at 6. See *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission’s Rules*, First Report and Order and FNPRM, 16 FCC Rcd 2598, 2598, para. 54 (2001); *affirmed by Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission’s Rules*, Second Report and Order and First Order on Reconsideration, 20 FCC Rcd 4516, 4518, para. 3 (2005).

<sup>10</sup> 47 CFR §§ 1.415, 1.419.

<sup>11</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, Report and Order, 13 FCC Rcd 11322 (1998).

<sup>12</sup> See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (2020).

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*Ex Parte Rules.* This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>13</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation.<sup>14</sup> If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the rules. In proceedings governed by section 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

For additional information, contact Evan Baranoff, [Evan.Baranoff@fcc.gov](mailto:Evan.Baranoff@fcc.gov), of the Media Bureau, Policy Division, (202) 418-7142. Direct press inquiries to Janice Wise at (202) 418-8165.

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<sup>13</sup> 47 CFR §§ 1.1200 *et seq.*

<sup>14</sup> *See id.* § 1.1206(b). Memoranda must contain a summary of the substance of the *ex parte* presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See id.* § 1.1206(b)(1).