



NEWS

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See MCI v. FCC, 515 F 2d 385 (D.C. Cir 1974).

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FCC INITIATES SECOND REVIEW OF DTV TRANSITION *Goal is to Keep Progress of DTV Conversion on Track*

Washington, DC – The Federal Communications Commission (“FCC”) today began the second periodic review of the conversion of the nation’s television broadcast system from analog technology to digital television (“DTV”). The DTV transition will increase efficient use of the spectrum, expand consumer choice for video programming, and increase the amount of spectrum available for public safety and other wireless services.

In a Notice of Proposed Rule Making (“NPRM”) released today, the FCC seeks comment on whether any adjustments to rules and policies are needed to ensure that the introduction of digital television and the recovery of spectrum at the end of the transition fully serves the public interest. In this NPRM, the FCC revisits several issues addressed in its first periodic review, begun in March 2000, and seeks comment on additional issues essential to ensuring continued progress on the DTV transition.

As part of the first periodic review, the FCC revised its rules and policies with the goal of expanding the number of DTV stations on the air and providing service to consumers who live in heavily populated areas. The FCC adopted modified build-out requirements enabling stations to go on the air with lower-powered, and therefore less expensive facilities, and providing broadcasters with additional time to gain experience with digital operation before being required to replicate or maximize their service area and select their post-transition channel. The FCC stated that it would set new deadlines for channel election, replication and maximization in its next DTV periodic review.

In today’s NPRM, the FCC is seeking comment on new channel election, replication, and maximization requirements. After the transition, broadcast television service will be limited to a “core spectrum” consisting of current television channels 2 through 51 (54-698 MHz).

Channel Election: The FCC proposes May 1, 2005 as the channel election deadline for commercial and noncommercial broadcast licensees with two in-core assigned channels, and seeks comment on alternative deadlines.

Replication and Maximization for DTV channels within the core spectrum: The FCC proposes to end replication and maximization interference protection for the top-four network affiliates (*i.e.*, ABC, CBS, Fox and NBC) in markets 1-100 as of July 1, 2005; and for all other commercial DTV licensees as well as noncommercial DTV licensees as of July 1, 2006.

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The NPRM also asks whether the FCC should adopt an intermediate signal coverage requirement beyond a broadcaster's current obligation to cover its community of license, expanding into nearby areas of the market.

TV Channels 52-69 (698-806 MHz, also referred to as the "700 MHz band") are out of the "core spectrum." The Auction Reform Act of 2002 directs the FCC to conduct auctions of the 700 MHz band before the expiration of the FCC's auction authority (September 30, 2007). The NPRM seeks comment on replication and maximization interference protection deadlines for stations operating on TV channels 52-69 in order to speed the clearing of the 700 MHz band for use by new services and to ensure continued progress in the digital transition. The FCC also invites comment on a number of other issues concerning the protection that must be provided to incumbent analog and digital broadcasters in the 700 MHz band during the transition.

The Communications Act states that licenses for analog television service expire on December 31, 2006. The FCC is required to reclaim this spectrum from broadcasters unless one of three conditions is met. The NPRM asks how the FCC should interpret the extension criteria. Specifically, the NPRM seeks comment on when stations should file an extension request with the FCC, how the FCC should define a "television market" for purposes of this provision, how it should interpret the requirement that digital-to-analog converter technology be "generally available" in a television market, and how it should interpret the test to determine if at least 85 percent of viewers have access to digital broadcast signals either over-the-air or through a subscription service (cable, satellite).

The NPRM raises a number of other issues, including: (1) whether the FCC should retain, revise, or remove the requirement that licensees simulcast a certain percentage of their analog channel on their DTV channel; (2) whether there are steps the FCC needs to take to assist noncommercial television stations in the transition; (3) whether there are labeling requirements for TV-related consumer equipment that would assist the transition and protect consumers; (4) whether and how the FCC should license multiple lower-powered transmitters, similar to cellular telephone systems, called distributed transmission systems; (5) whether broadcasters should be required to include Program System and Information Protocol ("PSIP") information within their digital signals to ensure the availability of certain functions; (6) whether the FCC should adopt digital V-chip requirements; and (7) what station identification requirements should apply to digital stations.

In order to reflect more recent developments, the NPRM seeks additional comment in the following on-going proceedings: DTV Public Interest Form NPRM, the Children's DTV Public Interest NPRM and the Notice of Inquiry on DTV public interest obligations. Specifically, how should public interest obligations be applied to broadcasters that choose to multicast (e.g., the application of the FCC's children's television rules or the statutory political broadcasting rules in a multicast environment). Also discussed is whether the FCC's approach to multicast public interest obligations should vary with the scope of whatever final digital must-carry obligation it adopts.

Action by the FCC, January 15, 2003 by NPRM (FCC 03-08). Chairman Powell, with Commissioners Abernathy, Copps, Martin and Adelstein. Commissioners Copps and Adelstein issuing separate statements.

Comments due: April 14, 2003; Replies due: May 14, 2003

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MB Docket No. 03-15; Petition for Rule Making 9832; MM Docket No. 99-360; MM Docket No. 00-167; MM Docket No. 00-168

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