

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

In the Matter of)	
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)	
Second Periodic Review of the)	MB Docket No. 03-15
Commission's Rules and Policies)	
Affecting the Conversion)	RM 9832
To Digital Television)	
)	
Public Interest Obligations of TV)	MM Docket No. 99-360
Broadcast Licensees)	
)	
Children's Television Obligations of)	MM Docket No. 00-167
Digital Television Broadcasters)	
)	
Standardized and Enhanced Disclosure)	MM Docket No. 00-168
Requirements for Television Broadcast)	
Licensee Public Interest Obligations)	

To: The Commission

COMMENTS ON NOTICE OF PROPOSED RULE MAKING

WHYY, Inc. ("WHYY"), through its attorneys, offers these comments on various proposals on the Notice of Proposed Rule Making ("Notice") in the above-captioned docket.

WHYY is the licensee of public television Stations WHYY-TV, Wilmington, Delaware (serving the Greater Philadelphia region) and WDPB, Seaford, Delaware.

1. Status of WHYY's Digital Television Stations. WHYY activated Station WHYY-DT, Channel *55, under special temporary authority in May 2000. It was the 18th Public Broadcasting Service (PBS) member station to initiate digital service. WHYY promotes the availability of its DTV signal through [a DTV page on its Website](#). On weekdays from 7 p.m. to 3 a.m. and on weekends from 5 p.m. to 3 a.m., WHYY-DT broadcasts high-definition programming, comprised of a combination of WHYY's own HDTV productions, special

wide-screen and HDTV presentations distributed by PBS, and programs from other sources. From 3:00 a.m. to 7 p.m., WHY-DT offers a digital simulcast of the programming seen on WHY-TV, NTSC Channel *12. The licensee is building toward a multicast service that will offer up to four simultaneous digital channels. WHY has asked for an extension of the deadline to activate Station WDPB-DT, Channel *44, at Seaford while it resolves an antenna design problem. It expects to complete construction and activate that station by September 30, 2003.

2. Maximization Protection for Out-of-Core Channels. As the licensee of a transitional out-of-core digital channel for Station WHY-DT, WHY opposes the adoption of any requirement that will reduce the potential for replication of its NTSC service area on DTV Channel 55 at any time during the transition. The FCC proposal for protection of licensed, authorized or applied-for facilities, requiring technical showings based on "actual" protection (i.e. not minimum mileage protection) (Notice, para. 51) should be adopted, and not in any way reduced. There should be no loss of protection whether or not the stations fully replicate their analog coverage areas. It is not known when the end of the DTV transition will take place, and so continued protection of the ability to facilitate higher power operation on out-of-core DTV channels at any time during the transition should be adopted as Commission policy.

3. Special PTV Issues. The Commission inquires as to transition issues specific to public television. As to the financial hardship standard examined at Section IV(F), WHY supports the application of a less stringent financial hardship standard to PTV licensees that may be having real difficulties meeting the deadlines. In subsection G the Commission addresses the simulcasting requirement. WHY supports the elimination of simulcast

requirements or, at a minimum, a delay in imposition of the higher requirements of 75% and 100% until much later in the transition. WHY Y does not broadcast all programs on the national PBS schedule, but typically will carry the programs within a week. This fact, combined with the lack of HDTV recording and playback equipment at the local level, makes it impossible to synchronize or “simulcast” both NTSC and DTV. WHY Y typically broadcasts all available PBS HDTV programs multiple times. But the programs may air on different nights, and even different weeks, than the analog version. The proposed definition of “simulcasting”, Notice, para. 67, is insufficiently flexible to permit this continued activity.

WHY Y recommends instead that the simulcast requirement be suspended or relaxed until more HDTV recording and playback equipment becomes available.¹ Additionally, WHY Y does not want to lose the flexibility that it currently has to air multiple services that do not duplicate what is available on analog. In the evening WHY Y is able to offer several choices of quality programs. This flexibility is a key in being able to experiment in the development of new program streams.

4. The Takeback Deadline. At subsection H, with regard to Item 3, Converter Technology Test, WHY Y believes that any such converter boxes should be able to display analog signals originally broadcast in any of the ATSC digital formats, including 1080-line HDTV. A converter that does not permit display of the most important HDTV format is no converter at all. Converters should be generally available at retail outlets in the market where television sets are sold. These boxes will be important to allow current owners who have invested heavily in analog display devices to continue to use their sets at a modest

¹ A request for immediate suspension of the simulcast requirement was filed on March 24, 2003 by WHY Y’s counsel along with the Public Broadcasting Service, the Association of Public Television Stations and another law firm.

investment. The easy availability of inexpensive converter boxes is essential to the transition.

Respectfully submitted,

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