

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Second Periodic Review of the)	MB Docket No. 03-15
Commission's Rules and Policies)	
Affecting the Conversion to)	RM 9832
Digital Television)	

COMMENTS OF BELO CORP.

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SUMMARY

Belo Corp. (“Belo”), the owner of nineteen television stations reaching 13.7 percent of the nation’s television households, has long been an enthusiastic supporter of digital television (“DTV”) and is fully committed to ensuring that this innovative and important technology is brought to the public as quickly as possible. Like many broadcasters, Belo has committed enormous resources to the implementation of digital service, and it is pleased with the great strides that the industry has made to this point.

The company applauds the Commission for taking a more active role in spurring the transition along, recognizing that the costly and difficult transition to digital service will be achieved on an inter-industry basis, not by broadcasters alone. In particular, Chairman Powell’s voluntary plan and the Commission’s mandate that all new television receivers include over-the-air DTV tuners on a phased-in basis beginning in 2004 are valuable contributions to the transition.

Despite the transition’s positive developments, however, it is undeniable that a number of important, and thorny, issues remain to be resolved. The Commission, for example, has yet to come to grips with the question of cable carriage rights for DTV. Likewise, the Commission must act quickly to resolve the closely related issues of DTV/cable interoperability and copy protection. Moreover, the lack of consumer awareness and retailer knowledge is a major impediment to a speedy transition.

In light of these difficulties, the Commission should recognize that the transition will not reach its conclusion in 2006 and use the instant proceeding to provide further guidance with respect to certain issues without imposing additional burdens on broadcasters. Belo fully supports the joint comments of the National Association of

Broadcasters and the Association for Maximum Service Television, Inc. in this proceeding and defers to them on all technical and engineering matters. Belo submits comments separately, however, to highlight those issues raised in the NPRM that are of particular concern to the transition's successful completion. In this regard, the Commission must provide broadcasters with detailed procedures to assist them in making their post-transition DTV channel election, defer any replication and maximization deadlines to the end of the transition, and eliminate the simulcasting rule to allow maximum flexibility to broadcasters to offer new and innovative digital programming. The Commission also must adopt rules expeditiously for the conversion of television translator stations to digital operations and the implementation of on-channel DTV boosters that can be used in a distributed transmission system.

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Belo Corp. (“Belo”), the owner of nineteen television stations reaching 13.7 percent of the nation’s television households,¹ hereby submits comments in response to the Notice of Proposed Rule Making (“NPRM”) in the above-captioned proceeding, which initiates the Commission’s second periodic review of the transition of the nation’s television system from analog to digital television (“DTV”).² Belo has long been an enthusiastic supporter of DTV and is fully committed to ensuring that this innovative and important technology is brought to the public as quickly as possible. In this regard, Belo fully supports the joint comments of the National Association of Broadcasters (“NAB”) and the Association for Maximum Service Television, Inc. (“MSTV”) in this proceeding,

¹ Belo, through its wholly-owned subsidiaries, is the licensee of television stations WFAA-TV, Dallas-Fort Worth, TX; KHOU-TV, Houston, TX; KING-TV, Seattle-Tacoma, WA; KONG-TV, Everett-Seattle, WA; KMOV(TV), St. Louis, MO; WCNC-TV, Charlotte, NC; KGW(TV), Portland, OR; WWL-TV, New Orleans, LA; WVEC-TV, Hampton-Norfolk, VA; KVUE-TV, Austin, TX; KENS-TV, San Antonio, TX; KMSB-TV, Tucson, AZ; KTTU-TV, Tucson, AZ; WHAS-TV, Louisville, KY; KTVK(TV), Phoenix, AZ; KASW(TV), Phoenix, AZ; KREM-TV, Spokane, WA; KSKN(TV), Spokane, WA; and KTVB(TV), Boise, ID.

² See Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television, Notice of Proposed Rule Making, MB Docket No. 03-15, FCC 03-8 (rel. Jan. 27, 2003) (“NPRM”).

and defers to them on all technical and engineering matters raised in the NPRM. Belo submits these comments, not to plow the same ground as NAB and MSTV, but simply to stress the importance of the Commission's prompt resolution of the DTV transition's remaining impediments, and to highlight those issues raised in the NPRM that are of particular concern to the transition's successful completion.

In keeping with its early and active support of DTV, Belo was among a group of owners in the top ten markets that committed to an expedited 18-month construction schedule for their DTV facilities, pledging to commence DTV operations at WFAA-TV in Dallas-Fort Worth, Texas by November 1, 1998. In fact, Belo met, and exceeded, that commitment; WFAA-TV launched digital television operations on February 27, 1998, becoming the first VHF television station in the country to begin digital broadcasting. Belo's Houston, Texas station, KHOU-TV, having built the first all-digital television studio, began digital broadcasting on May 18, 1998. A third Belo station, KING-TV in Seattle-Tacoma, Washington, also met the "early on" deadline, commencing digital broadcasting in September 1998. Today, all but five of Belo's stations are broadcasting DTV signals.³ This progress is the result of much hard work and the investment of more than \$80 million to date in the transition to digital television service. In short, Belo, like many broadcasters, has committed enormous resources to the implementation of digital service, and it is pleased with the great strides that the industry has made to this point, evidenced by the fact that more than 800 television stations across the country—covering

³ Of those Belo stations not currently providing DTV service, two, KMSB-TV in Tucson, Arizona and KVUE-TV in Austin, Texas, do not have construction permits. KMSB-TV has been working closely with FCC staff to resolve a particularly complex Mexican interference issue. KVUE-TV is awaiting Mexican concurrence for another station with which it has an interference acceptance agreement that allows both stations to maximize their DTV service areas. A third Belo station, KSKN in Spokane, Washington, is awaiting Commission action on its petition for a change in its assigned DTV channel.

approximately 98 percent of U.S. television households—are on the air with digital signals, despite the severe financial burdens and technical obstacles involved.

1. Chairman Powell

Belo also applauds the Commission for taking a more active role in spurring the transition along, recognizing that the costly and difficult transition to digital service will be achieved on an inter-industry basis, not by broadcasters alone. In this regard, the voluntary plan advanced by Chairman Powell has proven to be very valuable, as virtually every industry involved in the DTV transition has made real commitments in response to the Chairman's efforts. Broadcasters, in particular, were challenged to increase the amount of high definition television ("HDTV") programming during prime time hours, and Belo is doing just that: KING-TV, Belo's Seattle station, will begin airing its award-winning local programs "Evening Magazine" and "Northwest Backroads" in HDTV later this month. Beginning with a prime time special on April 21, "Evening Magazine," a long-form news and entertainment program focusing on local stories, will become the first locally produced daily magazine program broadcast in high definition. "Northwest Backroads," a weekly program that spotlights the people and places that make the region unique, makes its HDTV debut on April 26.

2. Over-the-Air DTV Tuners and Digital-to-Analog Converters

Belo strongly supports the Commission's mandate that all new television receivers include over-the-air DTV tuners on a phased-in basis beginning in 2004. The incorporation of DTV tuners will ensure that consumers, who expect that television sets are capable of over-the-air reception, will be able to continue using their sets in the digital environment just as they do today. Approximately 81 million television sets in the

country—more than 30 percent of all sets—are not connected to any subscription video service and rely exclusively on over-the-air broadcasting.⁴ More than half of those television sets are in households that do not subscribe to any multichannel video programming service.⁵ These numbers, demonstrating that tens of millions of consumers either rely solely on over-the-air broadcasting or have at least one television set that is not hooked up to cable or satellite service, are unlikely to change after the transition ends. The Commission's DTV tuner mandate ensures that no viewers will be disenfranchised.

Furthermore, to expedite the DTV transition, the Commission must develop a plan to ensure that, whenever the transition does end, the millions of existing analog television sets are capable of displaying digital signals. The Commission should advocate the use of a portion of the revenues from the auction of returned analog spectrum to relieve consumers of the financial burden of converting their analog television sets to receive digital signals. These funds could be directed at consumers who need conversion assistance through the use of a tax credit given to manufacturers and retailers who reduce the price of digital-to-analog converter boxes to an easily-affordable level, approximately \$15-\$20. Under the existing law, once a household has a DTV-capable receiver or a digital-to-analog converter, it is counted towards the 85% DTV penetration level necessary for ending the transition.⁶ Accordingly, by advocating a plan that ensures the easy accessibility of converter boxes, the Commission can greatly

⁴ Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, Second Report and Order and Second Memorandum Opinion and Order, 17 FCC Rcd 15978, 15993 (2002).

⁵ Id. at n.61.

⁶ 47 U.S.C. §§309(j)(14)(A) and (B).

accelerate the transition. Moreover, the agency can ensure that at the end of the transition, viewers who have not purchased digital sets will not be left without access to the free, over-the-air programming that broadcasters provide.

3. Cable Carriage Rights

Despite the transition's positive developments, it is undeniable that a number of important, and thorny, issues remain to be resolved. The Commission, for example, has yet to come to grips with the question of cable carriage rights for DTV, whether in reference to carriage of both the analog and digital broadcast signals during the transition or the definition of the "primary video" entitled to carriage. Belo has long emphasized the critical importance of cable carriage of the entire six megahertz digital signal, whether the station is broadcasting a single HDTV program or "multicasting," which is one of the major benefits of digital broadcasting, both to broadcasters and their viewers. Indeed, cable carriage of multicast signals is critical to the long-term business plans of broadcasters, and resolution of this issue is essential to further the transition.

4. Interoperability

The resolution of DTV/cable interoperability issues, too, is significant. Programming piracy concerns on the part of producers and distributors have delayed the development of digital interfaces among consumer DTV devices. Similarly, cable system operators have resisted the introduction of cable-ready digital sets, which would obviate the need for operator-controlled set-top boxes. In light of these difficulties, Belo is encouraged by the release of the Memorandum of Understanding ("MOU") between the cable and consumer electronics industries on December 19, 2002. The MOU sets forth the details of an agreement on a national "plug-and-play" cable compatibility standard,

and proposes rules for the implementation of the standard, which will allow consumers to plug their cable directly into their DTV receivers and receive HDTV content without the need for a separate cable set-top box. Although receivers manufactured pursuant to the MOU would only be capable of receiving one-way digital programming, with the specifications for a bi-directional receiver that would allow interactive advanced services such as impulse pay-per-view or video-on-demand still the subject of discussion, Belo urges the Commission to complete its review of the MOU as quickly as possible. In adopting the MOU's proposed regulations, however, the Commission should ensure that any digital television set deemed to be "cable-ready" also include the capability for over-the-air DTV reception (*i.e.*, a DTV tuner). To do otherwise would be contrary to the public interest, frustrate the expectations of consumers, undermine the FCC's DTV tuner mandate, and slow the DTV transition.

5. Copy Protection

As broadcasters like Belo provide more valuable HDTV content, and as digital receivers begin to appear in more homes, copy protection for in-the-clear DTV signals has become an especially important matter for the Commission to resolve. An inter-industry group comprised of representatives of the consumer electronics, information technology, motion picture, cable, and broadcast industries has reached a consensus on the use of a technical "broadcast flag" standard for digital broadcast copy protection, but there is as yet no agreement concerning how to implement and enforce the use of the broadcast flag. In response to a Notice of Proposed Rulemaking released by the Commission in August 2002, Belo signed on to joint comments submitted by MPAA, NAB, MSTV, ABC, CBS, and FOX, among others, urging the FCC to adopt rules

mandating the use of this broadcast flag technology. Belo again urges the Commission to conclude this rulemaking proceeding expeditiously.

6. Consumer Awareness at Point-of-Sale

Another major obstacle to the digital transition is the lack of consumer awareness and retailer knowledge. According to a recent report by the General Accounting Office, forty percent of Americans have not even heard about the transition to DTV, and less than twenty percent consider themselves to be “very aware” of the transition.⁷ Moreover, a trip to most big box consumer electronics stores will confirm that the sales staff is ill-informed about HDTV and the availability of digital signals in the local area.⁸ As a result, DTV set sales remain low, with only about one percent of television equipment sold as recently as 2001 capable of receiving an over-the-air digital signal.⁹

These and other remaining impediments clearly indicate that the digital transition will not end in 2006, as even Chairman Powell has suggested.¹⁰ Accordingly, the

⁷ General Accounting Office (“GAO”), GAO Highlights, Additional Efforts Could Help Advance Digital Television Transition (November 2002) (“GAO Highlights”); General Accounting Office, Additional Efforts Could Help Advance Digital Television Transition, at 15 (November 2002).

⁸ GAO Highlights at 3 (“[T]he quality of information that consumers receive about DTV products at the retail level may be inconsistent. During visits to 23 DTV retailers in five states, we found that . . . many staff were uninformed about important issues, such as the ability to receive DTV over the air and the amount of high definition content currently available.”); Mike Wenglar (Director of Engineering at Belo’s KVUE-TV, Austin, Texas), Undercover...In Pursuit of a Digital Television Set, Texas Association of Broadcasters Bulletin (December 2002) (observing, based on visits to four different electronics stores, that consumers will encounter either uninformed sales staff or salespersons more interested in selling DTV sets as part of an expensive, high-end home theater system).

⁹ GAO Highlights at 1.

¹⁰ See Transcript of Conversation Between Chairman Michael K. Powell and Sam Donaldson, NAB Convention (April 24, 2001), available at <http://ftp.fcc.gov/Speeches/Powell/2001/spmcp102.pdf> (Chairman Powell stating that he is “openly critical that the [2006] date, as originally envisioned, will in any way be realized”); Transcript of Hearing on The Transition to Digital Television Broadcasting Before the U.S. Senate, Committee on Commerce, Service and Transportation, at 3 (Mar. 1, 2001) (“[T]his much is clear: By 2006, this country will have neither the transmission facilities, nor the digital content, nor the

Commission should use the instant proceeding to provide further guidance with respect to certain technical issues, such as channel election, refrain from imposing unrealistic and burdensome deadlines, such as the proposed replication and maximization date, and allow maximum flexibility to broadcasters to offer new and innovative digital programming.

7. Channel Election

In the NPRM, the Commission proposes May 1, 2005 as the date by which commercial and noncommercial television stations with both their analog and digital channels in the core spectrum must elect which channel they will use at the end of the transition.¹¹ While Belo is not opposed in principle to the proposed date, it urges the Commission to establish detailed procedures to guide broadcasters on channel election. To make such a critical business decision about which channel would be most suitable for permanent operations, broadcasters not only need to gain experience by growing into their DTV facilities, but they also need to know, for example, whether a maximized digital facility on their current assigned DTV channel is transferable to their current analog channel on an interference-protected basis, or even at all. Such information is essential to ensuring that broadcasters make decisions that will result in the best DTV service to the public. For example, Belo's Dallas-Fort Worth, Texas station, WFAA-TV, operates on NTSC channel 8 and DTV channel 9. The presence of nearby KCEN-DT, Temple, Texas, also on DTV channel 9, could result in interference problems once that

(Continued . . .)

reception equipment needed to ensure that 85% of the population will be able to receive digital television as their exclusive source of television.”).

¹¹ NPRM, ¶ 25.

station begins operating with its full facilities, instead of its present reduced power facilities. Yet, because of the lack of detailed channel election guidelines, Belo is constrained in its ability to evaluate whether permanent DTV operation on channel 8 would be better.

8. Replication and Maximization

The Commission also proposes new replication and maximization protection dates, after which it will cease interference protection to the unserved areas within a station's DTV allotment or maximization authorization: July 1, 2005, for the top-four network affiliates in the top 100 markets; and July 1, 2006, for all other commercial and noncommercial DTV licensees.¹² These so-called "use-it-or-lose-it" deadlines do nothing to advance the transition. Indeed, given that the transition is certain to stretch well beyond 2006, the deadlines are unrealistic and unduly burdensome, depriving broadcasters of flexibility in building out and growing into their digital facilities. They also impose additional financial burdens on companies like Belo—that have already expended significant sums in the transition—without any corresponding benefit, since, in the absence of Commission resolution of a number of matters and significant movement by other industries, the DTV transition will not progress rapidly enough to support the proposed dates. Belo's KENS-DT in San Antonio, for example, is currently operating pursuant to special temporary authority at a reduced power of 29.3 kW, but is nevertheless providing service to approximately 81 percent of the population within its authorized DTV service area. In order to increase to its authorized power of 982 kW, the station must install a new transmitter at a cost of approximately \$800,000 and increase its

¹² Id., ¶ 33.

monthly electrical power costs from roughly \$350 to \$5000. In light of the marginal increase in service that would be achieved, it is hard to justify incurring the expense of going to full power, especially given the challenges that broadcasters currently face in reaching viewers with their DTV services – *i.e.*, low DTV receiver penetration and a lack of cable carriage. Accordingly, given the harm to broadcasters that a premature use-it-or-lose-it deadline would cause, it is only appropriate that the Commission defer any such deadline to the end of the transition when all broadcasters migrate to their final DTV channels.¹³

Belo understands the Commission’s desire, however, to ensure that broadcasters provide a sufficient level of DTV service to their core service areas so as to spur consumer interest in digital television. In this regard, the FCC has asked whether it should adopt an intermediate signal coverage requirement beyond a broadcaster’s current obligation to cover its community of license.¹⁴ Belo does not object to such a requirement, if it is coupled with a use-it-or-lose-it deadline at the close of the transition, as it would facilitate the Commission’s goal of ensuring that “the maximum number of consumers is able to receive digital television as quickly as possible while providing broadcasters a realistic timetable for increasing to full power.”¹⁵

¹³ The financial burden of a premature use-it-or-lose-it deadline would be especially great on those stations with out-of-core DTV channels. Indeed, given the fact that out-of-core DTV stations must bear the additional and undesirable expense of moving to an in-core channel at the end of the transition, there is no justification for providing such stations with any lesser degree of interference protection than that afforded to in-core stations.

¹⁴ NPRM, ¶ 36.

¹⁵ Id.

9. Simulcasting

The Commission's simulcasting requirement is of minimal value in driving the digital transition forward, and it must be eliminated or substantially relaxed. It is widely recognized that new and compelling digital programming is the key to a successful transition,¹⁶ but the simulcast rule, with its strict mandate that broadcasters eventually duplicate all of their analog programming on their digital channel, is completely at loggerheads with this common knowledge. It stifles innovation and denies broadcasters the flexibility they need to broadcast digital programming that is different from their analog fare.

10. Translators and Distributed Transmission Technology

Finally, Belo urges the Commission to adopt rules expeditiously for the conversion of television translator stations to digital operations and the implementation of on-channel DTV boosters that can be used in a distributed transmission system. Belo relies heavily on television translators to carry the programming of a number of its stations, especially in the western part of the country, where sparse population and terrain barriers make their use necessary. Even with maximized DTV facilities for the main stations, Belo will continue to rely on translators or, perhaps, distributed transmission systems, to fill out some of its stations' coverage areas. The Commission has said that it will initiate a rulemaking proceeding to consider issues related to the digital operation of

¹⁶ See Written Statement of W. Kenneth Ferree, Chief, Media Bureau, FCC, on "Copyright Protection and the Broadcast Flag, Before the Subcommittee on Courts, the Internet and Intellectual Property, Committee on Judiciary, U.S. House of Representatives, at 4 (Mar. 6, 2003) ("Consumers need a reason to invest in the digital transition. They have a very good analog system now. Why should they switch? Content. They will invest in digital when they see content that is significantly better than what they have available in analog today.")

