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BEFORE THE
Federal Communications Commission
Washington, DC

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Second Periodic Review of the)
Commission's Rules and Regulations)
Affecting the Conversion)
To Digital Television)

MB Docket No 03-15
RM 9832

COMMENTS OF HUBBARD BROADCASTING, INC.

Hubbard Broadcasting, Inc., by its counsel, submits its Comments in the above-captioned proceeding. Hubbard supports the Commission's continued efforts to bring about the conversion of broadcast television stations from analog to digital operation and these Comments are intended to assist the Commission in achieving that conversion.

Hubbard is the licensee of television stations in Minnesota, New Mexico, and New York. Hubbard's full service television stations vary in market size from the large Minneapolis-St. Paul DMA (14) market to the small Duluth, MN-Superior, WI (135) and Rochester, MN-Mason City IA-Austin, MN (153) markets. Also, Hubbard operates several terrestrial satellite television stations, as well as numerous television translator stations. With its significant, broad experience in television broadcasting, Hubbard is familiar with the challenges that are presented by the conversion to digital in markets of varying size.

Hubbard's comments will address the following selected issues: (1) the date by which a licensee must select its permanent channel when both its analog and

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digital channels are in core; (2) the date or dates for replication of the analog service area and the maximization of digital coverage; (3) whether an increased coverage requirement beyond the community of license should be adopted in this proceeding; (4) the deadline for licensees with one or more allocations in channels 52-69 to obtain maximization and replication; and (6) simulcasting.

Selection of Permanent Digital Channel-In Core

The Commission has proposed the date of May 1, 2005 as the deadline by which a licensee allotted two channels in core must elect which of its two channels it will use for its digital operation after the transition date. The suggested May 1, 2005 may be the earliest date by which stations can intelligently make that election. The top four network affiliates in the top **30** markets are required to be operating with their full digital facilities, and these stations are still learning from actual experience about digital broadcasting; for example, the extent of actual coverage rather than predicted coverage, interference from co-channel and adjacent channel operations, and problems caused by ducting and multi-path distortion. Moreover, those licensees with lower VHF channels (Channels 2-6) must examine possible interference problems caused by unlicensed and other users on frequencies that affect these channels when used for digital broadcasting. Furthermore, a procedure must be established by the Commission for all VHF licensees by which they can determine if the present spacing requirements for VHF channels result in problems when the VHF channel is used to broadcast a digital signal rather than a NTSC signal. Hubbard is such a licensee in the Minneapolis-St. Paul DMA with KSTP-TV's NTSC operation on Channel 5 and KSTP-DT's digital operation on

Channel 50. Although KSTP-DT is operating on Channel 50 with its maximum facilities, the station engineers continue to learn of various factors like those set forth above that are affecting its digital signal, and it is highly questionable that they would be fully informed to recommend a choice between Channels 5 and 50 by May 1,2005.

For many other stations, the May 1,2005 date may require an extension. The latter stations are likely to need a longer period of time to make their determinations on the final channel for digital because they have more limited actual operational experience with digital broadcasting. By and large, most of these stations are operating pursuant to Special Temporary Authorization with a limited signal of sufficient strength to meet the requirement to serve their community of license. The Commission adopted an interim policy of only requiring service to the community of license in recognition of the costs involved for stations serving increased areas without a resultant increase in revenues. This reasoning continues to be logical. Until these stations have sufficient audiences to provide the advertising revenues necessary to support the costs of increased coverage areas, these stations should not be required to provide greater service. However, as the number of digital sets grows, stations will, on their own, find it beneficial to extend their coverage, and at such time, they will gain more practical experience in digital broadcasting. With their increased experience, stations will be better able to determine which channel will provide maximum service to the public, but there may be a need for additional time beyond May 1,2005.

Replication and Maximization In Core

The date for replication and maximization should be the end of the transition to digital. It will take a number of years for digital set penetration to be sufficient to economically support full facilities. Most forecasters expect digital set penetration to not start to significantly increase until late 2004 or 2005. Thus, to impose more costs on stations that have already spent considerable dollars on digital facilities during an economic downturn in the nation's economy is not reasonable. Many stations will find it necessary within the next few years to just recoup the expenses already incurred in building their initial digital facilities and the continuing operational costs of providing the requisite coverage to their community of license. Again, by example, the cost of the digital build out necessary for Hubbard's WDIO-TV in the 135th market far exceeds the normal budgeted amount for capital construction for several years. The cost of building the WDIO-DT digital facilities was slightly more than 5 times the normal annual budgeted amount for capital improvements. Licensees should not be required to replicate their NTSC coverage and provide maximum facilities until a determination has been made on the permanent channel for digital broadcasting; otherwise, needless expenses will, in many cases, be incurred. Moreover, the replication and maximization dates should be related to the date at which the digital conversion in a station's DMA occurs.

Increased Coverage Requirements

With the expected lengthier growth rate for digital receivers, the additional time necessary for cable systems to complete their digital build out and to provide

digital set top boxes to their subscribers, particularly in medium and small markets; and for direct broadcast satellite providers to build sufficient capacity to carry digital signals, increased coverage requirements should be phased in as digital set penetration increases. An increase in coverage requirements tied to having **50%** or more of the viewers in the community of license receiving digital television, whether off-the-air or from a multi-channel video program provider, would assure a local television broadcast station that there is at least some minimal audience for its present digital service that may result in limited advertising revenues to assist in meeting the increased expense of serving the greater area. To increase the coverage requirements sooner imposes additional costs with no resultant increased revenues to the station to pay for such costs. Moreover, with low DTV set penetration, a station's audience will still be dependent on viewing the station's analog channel which already generally serves the increased area that is to be served by the increased digital service. It should be kept in mind that the Commission has correctly concluded to date that the opportunity for early increased digital receiver sales is greatest in a station's community of license where the largest population is located. Once this base sufficiently increases, digital service can be extended to additional areas.

Replication and Maximization-Out-of-Core

Stations that have one or more allocations out-of-core should be provided the same date as stations with allocations in the core. In the interim, the facilities used in the establishment of the Table of Allocations, 47 C.F.R. **373.606** and 47 C.F.R. 873.622 or in a granted construction permit should be protected. To the extent that

the Commission has already auctioned or will auction off additional spectrum in the 698 to 746 **MHz** band and spectrum in the 746-806 MHz band, out-of-core assignments need to be fully protected until the conversion to digital in a station's market. Further, stations with out-of-core assignments should not be required to build out replicated or maximized facilities on a channel that later must be surrendered. To require otherwise would be a forced expenditure of capital that may ultimately be wasted.

Simulcasting

As of April 1, 2003, the Commission requires digital stations to simulcast the analog channel **50%** of the time with increases in simulcasting in the next two years leading to 100%. The Commission should remove any limitation on programming as licensees have both the obligation and the presence in the service area to determine the programming that will best serve their audience. Licensees should be free to simulcast or present other programming based on their programming decisions as long as they operate in the public interest. The Commission should recognize that viewers are attracted to programming whether delivered by NTSC or digital broadcasting and digital broadcasting will present new opportunities for innovative programming and importantly enhanced coverage of sporting and news events. While the Commission has recognized in its definition of simulcasting that digital broadcasting provides opportunities in program presentation that are not available in NTSC, nevertheless, the same program will be required to be presented on both the analog and digital channels 100% of the time in 2005.

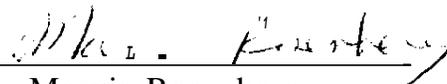
Consumers will be more likely to move to digital if they have opportunities to view programming, particularly in prime time, which is not always duplicative of the analog channel. Digital broadcasting can provide new network opportunities such as the HDNet network. A simulcasting requirement will stifle digital program development and limit the creative community in developing new programming that can stimulate the conversion to digital

Conclusion

To the extent that there are significant other issues presented in this proceeding on which Hubbard has not commented, Hubbard supports the Comments of the National Association of Broadcasters (NAB) and Association for Maximum Service Television, Inc. (MSTV). On matters where Hubbard differs from with the NAB and MSTV, Hubbard will file reply comments.

Respectfully submitted,

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