



STARZ ENCORE GROUP

August 8, 2003

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 Twelfth St., S.W.  
Washington, DC 20554

Re: *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion To Digital Television* (MB Docket No. 03-15); *Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices* (CS Docket No. 97-80); *Compatibility Between Cable Systems and Consumer Electronics Equipment* (PP Docket No. 00-67)

Dear Chairman Powell:

As founder, Chairman, and CEO of the Starz Encore Group, I wanted to share with you our concerns regarding impediments to DTV adoption. Starz Encore is a leader in premium digital television programming, and has a substantial interest, like others in the industry, in helping to ensure a swift and efficient transition to DTV. We also have a strong interest in ensuring that consumers who subscribe to our premium movie services have the best possible viewing experience. There are two items, in particular, regarding the DTV transition that we wish to call to your attention.

Under the ATSC standard presented to the Commission in 1996, high definition TV is only defined for the 16:9 scan format. Sets with a traditional 4:3 aspect ratio, even if they offer equal clarity of picture, cannot be called "high definition" according to the ATSC standard. Unfortunately, because most transmissions remain in 4:3, the viewing experience on a 16:9 set of normal cable and satellite transmissions is unsatisfactory. This has led to consumer confusion and dissatisfaction with respect to the new TV sets on the market and has significantly contributed to the delay in consumer acceptance and purchase of digital TV sets.

The second issue threatens to relegate the U.S. television system to second class status. It is the requirement of the Commission's DTV standard that the video compression standard be locked into MPEG-2. Accordingly, all current HDTV sets have hardwired MPEG-2 chips incorporated without any upgrade capability. This ignores the fact that the MPEG-2 standard is over ten years old and technically obsolete. An effective solution would be to allow for software upgradeable decoders that can be remotely upgraded to allow reception of more advanced and efficient compression technologies already in existence, with future advances surely to come.

The Commission is currently examining impediments to the transition to DTV in the *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*.<sup>1</sup> In the *Second DTV Periodic Review NPRM*, the Commission is seeking comment on factors currently presenting the greatest obstacles to the transition, and steps the Commission should take to address such obstacles.<sup>2</sup> Specifically regarding the ATSC DTV standard, the Commission stated that “[u]pdating the rules to reflect improvements in the standard will benefit both the public and broadcasters by allowing broadcasters to make technical improvements in their service that will enhance the quality of DTV services they provide.”<sup>3</sup> The Commission cannot afford to overlook the obstacle to the DTV conversion created by consumer confusion and dissatisfaction about the 4:3 versus 16:9 aspect ratio sets. Likewise it cannot allow the digital conversion to go forward using a fixed compression standard that cannot accommodate better, more efficient technologies, with backward compatibility.

On the issue of transmission formats for HDTV, and HDTV aspect ratios in particular, the Commission has intentionally not mandated aspect ratio requirements.<sup>4</sup> In declining to adopt such requirements, the Commission's rationale rested on the objective of allowing competition to foster consumer choice and innovation, ultimately allowing the market to decide the aspect ratios that would be available for HDTV.<sup>5</sup>

However, while the FCC's objective was to let the marketplace and consumers, decide between the two formats, the major industries involved instead adopted the HDTV standard recommended by the ATSC. Unfortunately, the ATSC standard did not permit 4:3 to qualify as HDTV, even with the same resolution of 1080i or 720p. As the ATSC says on its website in a history of DTV: “The FCC did not mandate use of the specific HDTV and SDTV video formats contained in the ATSC standards, but these have been uniformly adopted on a voluntary basis by broadcasters and receiver manufacturers.”

The FCC's failure to address the aspect ratio issue left the erroneous and damaging impression in the marketplace that the Commission had in fact endorsed the ATSC recommendations on aspect ratio. As a result, instead of the consumer choice that

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<sup>1</sup> *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion To Digital Television, Notice of Proposed Rulemaking*, 18 FCC Rcd 1279 (2003) (“*Second DTV Periodic Review NPRM*”).

<sup>2</sup> *Id.* at 1286.

<sup>3</sup> *Id.* at 1320.

<sup>4</sup> See 47 C.F.R. § 73.682(d).

<sup>5</sup> *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, Fourth Report and Order*, 17 FCC Rcd 17771, 17789 (1996) (“By not adopting video formats, we are allowing consumers to choose which formats are most important to them. Thus, we avoid the possibility that we could inhibit development of services which might, in fact, draw consumers more readily to embrace digital broadcasting and thus, hasten its adoption.” *Id.*).

the FCC intended, set manufacturers are phasing out 4:3 1080i sets in favor of 16:9 1080i.

This ignores the fact that most transmissions of television programming today, including those of Starz Encore, are designed to be received by a 4:3 set. Some broadcasters have begun transmissions in a 16:9 format, and Starz Encore will also send out 16:9 signals when we launch STARZ! HD, STARZ! Hi Res and Sharper Movies HD later this year. On sets of equal width, a 16:9 transmission is presented equally well on 4:3 and 16:9 sets, as the size of the image is equal.

Yet when a 4:3 transmission is received on a 16:9 set, the experience is less than satisfactory. The picture is squeezed between two vertical bars or is stretched or zoomed by the viewer. When two sets are of the same width, the image on a 4:3 set is 78% bigger than the same image on a 16:9 set squeezed between vertical bars.<sup>6</sup> When the 4:3 transmission is stretched to fill the 16:9 screen (as the viewer can easily do with the remote control), the picture is severely distorted. When it is zoomed, the picture loses both clarity and much of the information at the top and bottom. None of these options offers an adequate solution. This deficient viewing experience has created poor "buzz" for the new sets and has slowed consumer adoption of digital TV sets. In addition, most of the major films that Hollywood now produces offer more content in the 4:3 format than in the 16:9 format or in the wide screen format seen in theaters. This is because these films are shot on 35mm film, which is close to a 4:3 aspect ratio, and then cropped for 16:9 or theatrical presentations.

Starz Encore respectfully requests that the Commission, in its Report and Order that will be adopted in the *Second DTV Periodic Review* proceeding, remind industry and consumers that it did not foreclose the use of a 4:3 aspect ratio for HDTV or require that HDTV sets be 16:9. Rather, the Commission specifically left to competition and market forces the particular aspect ratios that would be available for HDTV sets and transmissions. In light of the confusion created by the ATSC format recommendations, the FCC should proactively affirm that a 4:3 aspect ratio with appropriate resolution (720p or 1080i) can qualify as HDTV. The Commission would serve the public interest by dispelling the myth that a 16:9 HDTV aspect ratio was mandated by the Commission's DTV standard, and by urging the consumer electronics industry not to ignore consumer choice by phasing out the 4:3 aspect ratio for HDTV sets.

Consumer adoption of DTV is also threatened by the built-in technological obsolescence of DTV receivers manufactured to the Commission's DTV standard. The ATSC DTV standard adopted by the Commission does not provide for remote upgradeability of DTV receivers, and locks-in the already-outmoded MPEG-2 standard.

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<sup>6</sup> A 16:9 set measuring 48 inches in width and 27 inches in height would present a 4:3 transmission in a area 36 x 27 inches, a mere 972 square inches. In contrast, a 4:3 set 48 inches in width would be able to present a 4:3 transmission in an area 48 x 36 inches for a total of 1,728 square inches.

The problem of the MPEG-2 standard will become even more serious should the Commission adopt the proposed "Plug and Play" Memorandum of Understanding ("Plug and Play MOU") between the cable television and consumer electronics industries. This would mandate that cable converters also be incorporated into TV sets using the MPEG-2 standard. Should plug and play be extended to the satellite industry, it too would be saddled with this outdated standard. This concern was recognized by Commission staff in a letter to the industry regarding the Plug and Play MOU.<sup>7</sup>

Providing for remote upgradeability and backward compatibility, an option technically feasible today, allows for future upgrades when more robust compression techniques are available. MPEG-4, H.264 and other new standards are already in widespread use in the computer industry. If the sets are frozen in an MPEG-2 format, it will be impossible to move to new, more efficient transmission standards without forcing millions of consumers to purchase yet more new digital TV sets, creating a consumer uproar. The only other alternative will be to continue to rely on MPEG-2, resulting in a massive waste of scarce spectrum and a non-competitive US television system (cable, satellite and broadcast) in the world marketplace.

The Commission should use its *Second DTV Periodic Review* as the vehicle to examine the inclusion of receiver upgradeability in its DTV standard. As discussed above, the Commission recognized in the *Notice* that "[u]pdating the rules to reflect improvements in the standard will benefit both the public and broadcasters by allowing broadcasters to make technical improvements in their service that will enhance the quality of DTV services they provide."<sup>8</sup> Providing for remote receiver upgradeability would clearly enhance the quality of DTV services provided by broadcasters, and lead to more efficient use of digital spectrum. There is simply no good reason why the Commission should mandate that the roll-out of millions of supposed next generation digital sets be saddled with compression technology from the last generation. Instead, it should use the opportunity of its *Second DTV Periodic Review* to begin a rulemaking to consider whether the DTV Standard should be amended to allow for remote upgradeability and the incorporation of new, advanced compression technologies.

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<sup>7</sup> Letter from John P. Wong, Chief, Engineering Division, Media Bureau, Federal Communications Commission to Neal Goldberg, National Cable & Telecommunications Association and Michael Petricone, Consumer Electronics Association, CS Docket No. 97-80 and PP Docket No. 00-67 (June 26, 2003).

<sup>8</sup> *Second DTV Periodic Review NPRM* at 1320.

The Honorable Michael K. Powell

August 8, 2003

Page 5

Taking these requested actions – to qualify 4:3 as an acceptable HDTV format and providing that DTV decoders be remotely upgradeable – would dramatically aid the transition to DTV and provide significant public benefits. Starz Encore respectfully requests Commission consideration of these requests.

Sincerely,



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Commissioner Michael J. Copps  
Commission Kevin J. Martin  
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