

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Amendment of Parts 73 and 74 of the) **MB Docket No. 03-185**
Commission's Rules For Digital Low Power)
Television Translator, and Television Booster)
Stations and to Amend Rules for Digital Class)
A Television Stations)

To: The Commission

November 24, 2003

COMMENTS OF HARBOR WIRELESS, L.L.C.

Harbor Wireless, L.L.C. ("Harbor") hereby submits its Comments on the LPTV Proceeding (MB Docket No. 013-185). Harbor respectfully requests that the Commission not make 700 MHz spectrum available to additional LPTV and TV translator stations during the DTV Transition. Harbor believes that allowing new DTV operations in the 700 MHz band would not advance the DTV transition as hoped, but instead would only further clutter the 700 MHz band in both reality and perception, thus retarding ongoing efforts by existing licensees to develop new services in the band.

Harbor was formed in the year 2000 to develop wireless services and systems in the 700 MHz band. The principals of Harbor are experienced communications entrepreneurs with an established record of constructing and operating broadband wireless networks. Harbor participated in FCC Auction No. 44 and acquired 14 Lower Band 700 MHz licenses in a variety of markets across the U.S. Harbor, in cooperation

with other holders of 700 MHz spectrum, now is working to develop new services utilizing this spectrum.

In working with other licensees, Harbor has found that uncertainty surrounding the timing and terms of the DTV transition has caused serious impediments to the delivery of new services in this band. Manufacturers have been slow to devote the necessary resources to the development of state-of-the-art 700 MHz products due in large part to uncertainty regarding the transition framework. Lenders also are reluctant to commit money to the 700 MHz telecommunication business because of uncertainty as to when they will start earning a return of their investment. And many licensees are deferring plans to build out particular markets until they can gain some confidence that 700 MHz services will be capable of establishing a ubiquitous footprint in the foreseeable future. Adding new LPTV operations in the 700 MHz band, even on a secondary basis, will exacerbate both the reality and perception of an encumbered band that has deterred development of new uses for this spectrum.

Despite these constraints, licensees in both Lower 700 MHz and Upper 700 MHz guard band are aggressively investigating applications for the spectrum and some have already deployed systems (see comments of Access Spectrum and other 700 MHz licensees). Much of this effort is taking place in rural areas and smaller markets where the problem of television incumbency is not as great; these are the same areas that would be most impacted by new LPTV operations in the 700 MHz band. It is inappropriate for the Commission to advance a policy that proposes significant secondary use of this spectrum in competition with emerging applications being developed by licensees that acquired their spectrum rights at auction.

Further, these costs would be inflicted without accomplishing the imagined benefit of advancing the DTV transition. The Commission has already required most high-power TV stations to begin digital operations. Sources such as the NAB have asserted that the vast majority of TV households have access to digital broadcasts, yet this has not spurred the adoption rate for digital receivers among TV viewers. Additional digital LPTV operations would have no meaningful impact on consumer adoption of digital TV. On the contrary, adding new LPTV operations would add cost and complexity to the process by creating additional interference that would have to be dealt with by existing full power stations and new licensees.

As Berlin's rapid and successful transition to DTV has demonstrated¹, the most effective way to promote the DTV transition is to implement a clear and unequivocal framework for the transition—in particular, a definitive timeline for both consumers and providers to follow to the future of digital TV. Allowing new LPTV operations in the 700 MHz does nothing to clarify the structure of the DTV transition; on the contrary, additional operations would further cloud an already murky framework.

Harbor respectfully requests that the Commission take actions in these proceedings consistent with these comments.

Respectfully submitted,

HARBOR WIRELESS, L.L.C.

¹ On August 4, 2003, the analog TV stations in Berlin and the surrounding Brandenburg region ceased operations and converted to an all digital TV service.

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