

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 to Establish Rules for)
Digital Low Power Television, Television)
Translator, and Television Booster Stations)
And to Amend Rules for Digital Class A)
Television Stations)

REPLY COMMENTS OF MOTOROLA, INC.

Motorola, Inc. (“Motorola”) respectfully submits these reply comments in response to the FCC’s *Notice of Proposed Rulemaking* in the above-captioned proceeding to develop rules that facilitate the deployment of digital low power television (“LPTV”), broadcast translator, and television booster stations.¹

In its original comments, Motorola urged the Commission to prohibit the installation of new digital LPTV, translator, and booster facilities on UHF-TV channels 60-69 (*i.e.*, the “upper 700 MHz band”) as well as channels 52-59 (*i.e.*, the “lower 700 MHz band”) in order to protect the ability of public safety users and other primary licensees to deploy 700 MHz systems during the digital television (“DTV”) transition.²

¹ *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, Notice of Proposed Rulemaking, 18 FCC Rcd 18365 (2003) (“*Notice*”).

² Comments of Motorola, Nov. 25, 2003, at 1.

Many other parties responding to the *Notice* echoed Motorola's sentiments arguing that the continued assignment of new broadcasting licenses in the 700 MHz band is inconsistent with the Commission's goal to clear the band of all broadcasters and make it available for new uses.³ Furthermore, many of these parties found that the secondary status of the proposed broadcast operations will not adequately protect primary operators because of the substantial problems that arise with respect to terminating secondary operations that interfere with primary licensees.⁴ Notably, the Association of Public-Safety Communications Officials-International stated its concern that the continued licensing of new broadcasting operations on channels 60-69, even if on a secondary basis, will lead to "bitter community/political battles between LPTV and translator licensees, and public safety agencies seeking access to critical spectrum."⁵

Motorola agrees with these commenters and therefore urges the FCC to adopt its proposal to prohibit new digital broadcast facilities on TV channels 60-69 and to reconsider its tentative proposal to allow such facilities on TV channels 52-59. The Commission should not adopt rules that have a high probability of resulting in lengthy disputes and conflicts between primary and secondary users.

³ See, e.g., Comments of Arctic Slope Telephone Association Cooperative, Inc., Grand River Communications, Inc., Kanokla Telephone Association, Inc., Peoples Telephone Cooperative, Inc., and Valley Telephone Cooperative, Inc., Nov. 25, 2003, at 3; Comments of the Rural 700 MHz Band Licensees, Nov. 25, 2003, at 2; Comments of Martin Group, Inc., Nov. 24, 2003, at 1-2.

⁴ See, e.g., Comments of Access Spectrum, LLC, Nov. 25, 2003, at 4-5; Comments of QUALCOMM Incorporated, Nov. 25, 2003, at 12-13; Comments of Corr Wireless Communications, LLC, Nov. 25, 2003, at 3-4.

⁵ Comments of the Association of Public-Safety Communications Officials – International, Inc., Nov. 25, 2003, at 2.

Since the filing of Motorola's comments in this proceeding that address the deployment of *digital* auxiliary broadcast services, Motorola has been reminded of the FCC's policy to continue to allow the deployment of *analog* LPTV, translators, and booster stations on all channels in the UHF band. Indeed, this policy was discussed in the subject *Notice*, where the FCC noted.⁶

[I]n the Channel 52-59 reallocation order, the Commission permitted LPTV and TV translator stations to operate indefinitely on these channels on a non-interfering basis and to negotiate interference agreements with new primary service providers. With regard to future filing windows, it retained "the discretion to geographically restrict or preclude altogether the filing of applications for new LPTV and TV translator stations seeking to operate on channels 52-69."

The Commission concluded this analysis by stating that it "may be appropriate to preclude or restrict the filing of additional applications for new analog LPTV and TV translator service on these channels." Despite the Commission's apparent re-thinking of these policies, it recently released a Public Notice that contained 18 applications for analog translators and LPTV stations proposing to operate on channels 52-69 – including two that specify channels now allocated for public safety use.⁷

The reasons for precluding digital translators, boosters, and LPTV stations from operating in the 700 MHz bands also apply to new analog broadcast facilities. Motorola therefore urges the FCC to immediately institute a prohibition on the installation of new analog LPTV stations, translators, and boosters on UHF-TV channels 52-69.

⁶ *Notice* at ¶ 29.

⁷ Low Power/Television Translators: Proposed Construction Permits, *Public Notice*, Report No.: AUCT81-10 (released December 3, 2003). The application submitted by Michael Mintz to operate a LPTV station on Channel 63 in Lake Charles, LA and the applications submitted by Summit County to operate a TV translator on Channel 69 in Rural Summit County, UT specify channels now allocated for primary public safety use.

Preserving the ability of public safety and commercial operators to deploy stations during the DTV transition should be a Commission priority. In 1998, when the Commission reallocated the upper 700 MHz band, the Commission determined that, given their secondary status, it would continue to authorize LPTV and TV translator service on these channels until the end of the DTV transition.⁸ The end of the digital transition, however, is no longer the distant goal it once was and is now an imminent reality. Since 1998, public safety users have made substantial progress in planning for the deployment of 700 MHz public safety facilities. For example, technology standards for narrowband voice and data technologies have been established,⁹ state licenses have been issued,¹⁰ spectrum use plans are being finalized in most regions,¹¹ and 700 MHz portable, mobile, and base station equipment is already available. Public safety organizations will be ready to deploy 700 MHz facilities prior to the end of the DTV transition. Further, the record in this proceeding makes clear that commercial entities in both 700 MHz bands are actively engaged in utilizing their spectrum holdings.¹² The only impediment to early deployment is the lack of available spectrum in all areas.

⁸ *Channel 60-69 Reallocation Order* at ¶ 31.

⁹ *See, The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010*, Fourth Report and Order and Fifth Notice of Proposed Rule Making, 16 FCC Rcd 2020 (2001).

¹⁰ *See, e.g., Public Safety 700 MHz Band—State License Option To Apply Runs Through December 31, 2001*, Public Notice, released Feb. 15, 2001. Most, if not all, states have applied for and received these licenses.

¹¹ The FCC's web site provides status information on the 700 MHz regional planning process for all regions at <http://wireless.fcc.gov/publicsafety/700MHz/>.

¹² *See, e.g.,* Comments of Access Spectrum, LLC, Nov. 25, 2003; Comments of QUALCOMM Incorporated, Nov. 25, 2003; Comments of the Rural 700 MHz Band Licensees, Nov. 25, 2003.

To decrease the amount of unencumbered spectrum available by granting new analog licenses in this band will only further delay the digital transition. By continuing to authorize new LPTV, TV translator, and TV booster operations in this band, the Commission is only increasing the number of facilities that will ultimately have to be moved in the next few years. Moreover, public safety licensees are expecting this band to become available prior to the passing of any reasonable amortization period that would allow new LPTV, TV translator, and TV booster operators to recover their investment. Therefore, either the newly licensed low power broadcasting operators would be forced to relocate prior to any substantial investment recoupment or public safety licensees would be required to wait even longer for the unencumbered spectrum necessary to fully implement operations on this band. Such results would be unfair to both the primary public safety licensees and the newly licensed secondary LPTV, TV translator, or TV booster station operators. The continued authorization of new low power broadcasting operations on these channels will place increased coordination burdens on public safety users, tightening even further the already constrained budgets of these users.

For the foregoing reasons, Motorola respectfully requests that the Commission cease authorizing new digital and analog LPTV, TV translator, TV booster operations in the upper 700 MHz band.

Respectfully Submitted,

/s/ Steve B. Sharkey
Steve B. Sharkey
Director, Spectrum and Standards Strategy
Motorola, Inc.
1350 I Street, NW
Suite 400
Washington, D.C. 20005
202.371.6900

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