As requested, here is the last update on our distributed transmission (DTx) proposal.

We reiterate our earlier proposal that the service produced by DTx transmitters be given primary status (however restricted that service area might be) in a rule. Without this explicit recognition, neither stations nor transmitter manufacturers will have incentive to adopt the technology.

In addition, we urge the FCC to allow stations using DTx be permitted to extend service beyond the currently protected service area (based on a single transmitter). It will be extremely difficult to keep the signals from DTx transmitters inside the single transmitter contour and, as a result, DTx will be usable in far fewer instances.

The acceptable extensions beyond the service area could be limited to 10% of the current service population or some other acceptable figure. The figure needs to be higher than de minimis (which is typically 1% or less).

These DTx coverage extensions would not be entitled to repacking protection. Stations proposing these changes would have to accept a condition in their construction permits that they might have to power down if their operation causes excessive interference to a DTV station at the end of repacking. The Commission included a similar condition in every analog construction permit it issued starting in August or September 1996 advising the station that it might be required to power down if their proposal/operation caused excessive interference to a DTV station once the DTV table was issued. Post-repacking protection would afforded to these extensions only if they were acceptable after the repacking channel plan is finalized.

If this approach cannot be put in a rule, we urge the most explicit direction to staff as possible to permit the use of DTx in this way on an interim basis.

The recent push back from the staff is based more on policy than interference. I learned today from OET staff that they believe OET understands enough about DTx to predict how it will behave. Their concerns are policy related. They do not believe that DTx service area should be given primary treatment, at least at this time.

The interference issue raised by the Media Bureau relates to the treatment of interference from DTx under OET 69 and the de minimis interference rules. I previously circulated an e-mail on that issue. We do not see this as an insurmountable obstacle. Similarly, the changes to the FCC's internal DTV application evaluation model have been discussed with Bill Meintel and can be done.

More importantly, if the staff is going to consider DTx proposals on an interim basis, it cannot avoid addressing these issues. To act on any DTx proposals, it will need to do this very same work anyway. Since the work will need to be done one way or another, we believe it makes sense to adopt the rule and authorize the necessary OET 69 and FCC program software work.

To address concerns about cherry picking and abandoning a station's original service area, a requirement could be imposed requiring any station using DTx to provide 41 dBu service to 95% (or whatever is feasible) of the population in its original DTV allotment (which was issued to replicate analog service). We believe population, not service area, is the appropriate limitation to focus on.

Finally, this proposal has come very far from where it started. Unfortunately, our understanding of the staff's current proposal is that it is still mired in the analog world. The proposal treats DTx no different than analog boosters. DTV offers a number of new opportunities for broadcasters that we believe are decidedly in the public interest. We hope that the 8th floor can move push this proposal forward a bit more so that the benefits of this new technology can be made meaningfully available to both broadcasters and the public on an interim basis while the more detailed rulemaking proceeds.

Thanks.

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