

October 29, 2004

Ex Parte Communication

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20445

Re:
CS Docket No. 98-120
MB Docket No. 03-15

Dear Ms. Dortch:

The undersigned broadcast organizations and companies submit the following plan to complete the digital transition and at the same time protect American consumers. The Ferree Plan is a useful starting point but must be reformed in key respects in order not to deprive viewers of access to local digital television programming.

Broadcasters are committed to the digital transition, and we have made tremendous progress toward that goal. From research and development work to station construction and investment in programming, broadcasters are moving the transition forward. Broadcast television stations provided more than 2500 hours of HDTV programming last year. Local television stations are providing a vast array of multicast programs including 24-hour news services.

The broadcast television industry is committed to providing the American consumer with the benefits of over-the-air digital television service. Today, there are more than 1400 DTV stations on the air, operating in 209 television markets and serving more than 99.7% of US television households. Over the past few years we have essentially rebuilt this nation's over the air broadcast infrastructure.

Broadcasters are also committed to serving the needs of our viewing audience. For that reason, we want to ensure that any digital transition plan recognizes that the needs of viewers are paramount.

Broadcasting's critical role: Over-the-air broadcasting plays a crucial public service role for consumers. It continues to provide extensive amounts of locally-oriented news, information and sports, along with important national news and entertainment. As Homeland Security Chief Tom Ridge has attested, broadcasting is in the front line of public safety preparedness and responsiveness. No better example exists than the life-saving role over-the-air broadcasting played while Charlie, Ivan, and Frances tackled Florida, the Gulf Coast and Appalachia this hurricane season. Over-the-air television offered crucial up-to-date local weather, emergency and public safety information at a time when cable and satellite suffered wide spread interruptions. Moreover, when cable and satellite crews pack up their operations and turn to their next "news" event, local broadcasters remain in their communities to provide still needed local information. Radio and TV worked together to get as much information out to the public as possible.

Protection of consumers' investments: Consumers have also made and increasingly will make large investments in digital television sets, while the government has also allowed analog sets to be sold in great numbers even though it seeks to bring the digital transition to conclusion. In order to ensure that consumers are not disenfranchised from the investments that they have made in their television sets, analog or digital, cable systems ideally should be subject to transitional carriage rules. Nonetheless, by the end of the transition cable systems should be required to transmit the broadcaster's full digital signal from the head-end and either (a) provide for downconversion in subscriber homes with analog sets or (b) *if the cable operator prefers*, also send a downconverted version for homes with analog sets. Thus, any plan to end the transition and return analog spectrum must ensure that *all consumers* are able to receive, at their TV set, the full program offerings provided by free over-the-air broadcast services. As recognized by the Ferree Plan and in Senate Bill No. S. 2845, appropriate government funding from spectrum auctions should be provided for consumers to equip their analog sets with downconversion capability.

Anti-degradation/multicast carriage: Moreover, cable systems that are carrying broadcasters' digital signals whether under a must carry requirement or a retransmission consent arrangement must not be permitted to strip out or degrade those signals. Just because consumers subscribe to pay service, they should not be denied the additional free over-the-air programming that digital broadcasting offers. The anti-degradation principle is a fundamental part of the analog carriage rules, and, as directed by Congress, it should be adapted and preserved in the digital environment to be effective immediately. As Congress also directed, the Commission should implement these same principles for DBS. The Ferree Plan as submitted to Congress on June 6 of this year includes a multicast carriage requirement.

Anti-degradation/downconversion at the home: In the same vein, neither cable nor satellite operators should be permitted to downconvert (i.e., degrade) a digital signal at the head end, as the Ferree Plan proposes both immediately prior to (in order artificially and we believe unlawfully to achieve the 85% statutory benchmark) and after the transition. Consumers that

have invested in digital sets -- an investment that the government has sought to encourage -- should not face uncertainty whether after the transition they will be able to receive HDTV and other digital services from their cable system. To cure this major anti-consumer defect in the Ferree plan, cable systems must be required in connection with the transition to transmit the broadcaster's full digital signal from the head-end *and* either (a) provide for downconversion in subscriber homes with analog sets or (b) *if the cable operator prefers*, also send a downconverted version for homes with analog sets. Small cable systems could be exempted from this requirement as they are under the analog carriage rules.

Other consumer protections: Also, to protect viewers' broadcast service from unanticipated interference during the transition, the FCC must not adopt any proposal for unlicensed devices to operate in so-called "white spaces" at least until after the spectrum giveback, and it should, in the interim, explore alternative uses for this spectrum. Also to facilitate the transition the FCC should assure adequate spectrum for all auxiliary broadcast equipment, such as wireless microphones and remote hand-held DTV cameras.

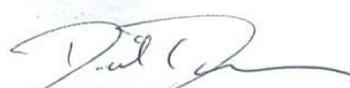
Broadcaster undertakings: Broadcasters have spent billions of dollars to implement the digital transition and commit to continue investing billions more in the next few years. Moreover, as we roll out additional digital programming services, we as responsible broadcasters will continue to be sensitive to our public interest obligations. We believe that adherence to the fundamental principles outlined here will allow us to work with Congress and regulators to develop a specific DTV transition plan in the coming months that will bring an orderly end to the transition, but in a manner that continues to serve the best interests of the American consumer. If all these steps are accomplished, it could be possible to set a hard date for completion of the digital transition, except where the FCC grants waivers due to factors beyond licensee's control, as in the case of New York City, and where the issues may have technical consequences in neighboring markets or other external circumstances.

We look forward to working with all industry participants and the government to move the digital transition forward for the benefit of American consumers.

Respectfully submitted,



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National Association of Broadcasters



David Donovan, President
Association for Maximum Service
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Barrington Broadcasting Co.

Capitol Broadcasting Co., Inc.

Dispatch Broadcast Group

Gannett Broadcasting

Hubbard Television Group

LIN Television, Inc.

Media General, Inc.

Raycom Media

Young Broadcasting, Inc.

Bob Lee, Chair
CBS Television Network Affiliates
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Terry Mackin, President-Chairman
NBC Television Affiliates

Alex Wallau, President, Network
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The ABC Television Network

Belo Corp.

Citadel Communications Company

Emmis Communications

Hearst-Argyle Television, Inc.

Liberty Corporation

McGraw-Hill Broadcasting Company

Morgan Murphy Stations

Tribune Television, Inc.