



December 21, 2016

Ex Parte Notice

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: Joint Petition for Rulemaking of America’s Public Television Stations, The AWARN Alliance, The Consumer Technology Association, and The National Association of Broadcasters, GN Docket No. 16-142

Dear Ms. Dortch:

NTCA – The Rural Broadband Association adds its voice to the chorus of multichannel video programming distributor (MVPD) representatives expressing reservations about the Commission’s consideration of proposed new rules permitting broadcasters to transmit in the ATSC 3.0 format. NTCA represents about 800 rural local broadband providers, most of which offer video services to their subscribers.

The National Association of Broadcasters (NAB) characterizes all who request a thorough and careful consideration of the issues as self-serving obstructionists¹ and suggests that members of the American Television Alliance (ATVA), of which NTCA is a member, “simply do not care” about their customers and seek to avoid upgrading consumer services.²

Nothing could be further from the truth. NTCA and its fellow MVPDs invest heavily in the infrastructure used to carry broadcast signals to viewers – and in rural areas in particular, the infrastructure and services provided by NTCA members may often be *the only way* for consumers to view that content. Thus, any breathless claims with respect to “caring” for consumers and an “avoidance” of upgrading services could not be more misplaced. Representing those who invest and innovate, NTCA thus understands the broadcasters’ desire for the Commission to move quickly on new rules that may enable new services and allow more effective monetization of their licensed spectrum. However, the proposed transition affects many parties other than just the broadcasters, and a thoughtful, managed resolution is therefore warranted. Carriage of an ATSC 3.0 signal would require expensive new equipment at each MVPD local receive facility and could require new consumer set-top boxes. There are likely to also be MVPD capacity concerns. In fact, many aspects of the ATSC 3.0 standard have yet to be finalized and approved and it is difficult to predict the full impact of

¹ See, e.g., Letter from Rick Kaplan to Marlene H. Dortch, GN Docket No. 16-142 (Dec. 8, 2016).

² Id.

how the transition will impact consumers and the MVPDs who carry the broadcast signal to consumers. (This again is a particularly thorny concern in rural areas where, in the absence of MVPD services, the broadcasters' signals would not reach many consumers at all.)

NAB is emphatic in its insistence that the new standard would be purely voluntary, but "voluntary" is a misnomer at best to the extent is the standard is a non-negotiable term in a proffered retransmission consent agreement. NTCA does not request that the Commission dictate terms and conditions of future retransmission consent agreements, but rather requests that the Commission use this process to fully consider all issues related to potential implementation (or one-sided mandate) of the ASTC 3.0 standard and help ensure that a voluntary transition is indeed truly voluntary. The broadcast transition should not negatively financially affect MVPDs or consumers.

NAB claims that the ATVA members are attempting to hold broadcasters back due to a "fear of competition."³ For many rural areas, however, this baseless claim flies in the face of facts on the ground –and even where rural providers do face some limited competition in their more populated towns, it certainly does not come and will not come from broadcast television. Indeed, many, if not most, rural consumers cannot receive an over the air broadcast signal without the help of an MVPD. More than one-quarter of NTCA's members report that 90% or more of their subscribers have no access to over the air programming.⁴

Due to the high cost of programming, NTCA's members offer video on razor thin margins, at best. An increase in cost caused by this transition may push many small and rural providers out of the business of offering video service – a bad and untimely result for those many rural consumers whose only means of receiving local news, weather, and sports on television is through a rural MVPD.

NTCA appreciates the broadcasters' efforts (if not the rhetoric) in this proceeding. NTCA merely cautions that rather than rush to a rulemaking, a Notice of Inquiry is the more appropriate vehicle at this early stage so that the Commission and all stakeholders involved can operate in full awareness of the implications of this proposed transition prior to adoption of rules to effectuate such a transition.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.

Sincerely,

/s/ Jill Canfield

Jill Canfield

Vice President, Legal & Industry

Assistant General Counsel

³ Id.

⁴ NTCA and Incompass 2015 Video Competition Survey, p. 2.

http://www.ntca.org/images/stories/Documents/Advocacy/SurveyReports/NTCA_2015VideoCompetitionSurvey.pdf