

Before the  
**Federal Communications Commission**  
Washington, D.C.

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In the Matter of:	)	
Authorizing Permissive	)	
Use of the “Next	)	GN Docket No. 16-142
Generation” Broadcast	)	
Television Standard	)	

**OPPOSITION FROM THE ADVANCED TELEVISION BROADCASTING ALLIANCE  
TO ATVA PETITION FOR RECONSIDERATION**

**Introduction**

The Advanced Television Broadcasting Alliance (the “Alliance”) opposes the Petition for Reconsideration filed by the American Television Alliance (“ATVA”) because it is a transparent attempt to stifle innovation and to use the Commission’s regulatory processes to handicap the ATVA’s chief competitors in the broadcast industry.<sup>1</sup> The Petition attacks problems that do not exist and would significantly delay the voluntary adoption of a vastly superior “next generation” broadcast standard. Indeed, the ATVA Petition hits the trifecta of bad policy making: it would discourage innovation, harm competition, and increase regulatory burdens and costs. The Commission should deny it to send the clear message that it is on the side of innovation and improving broadcast service to consumers.

The Alliance is trade industry association representing over 3,000 low power television stations, translators, and full power television stations and various allied industry organizations and companies. The Alliance aims to promote the efficient and effective use of all television

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<sup>1</sup> The Petition addresses the FCC’s order in *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, 32 FCC Rcd. 9930 (2017) (the “Order”).

broadcast spectrum and to assist in the roll out of new broadcast technologies such as ATSC 3.0. Many of the Alliance's members are proceeding quickly with plans to implement ATSC 3.0 and to deliver the new technologies associated with it. Once converted to ATSC 3.0, the Alliance's members will dramatically improve their service to the consumers by offering high-quality IP multi-casting, improved access for broadband video distribution, better emergency alerting, and an overall improved broadcast experience for home and mobile. The Alliance's thousands of low power and translator members will bring these benefits disproportionately to the unserved and underserved public, such as suburban, rural, and low-income households fitting the original purpose and design of the low power television service.

### **DISCUSSION**

The Commission's Order took into consideration the views of multiple industry organizations, consumer groups, and individual companies, and it did an exemplary job of balancing those many competing interests. ATVA is simply disappointed that the Commission did not adopt its own preferred outcome. But, disappointment is not a proper basis for reconsideration – especially when the Commission fully considered and rejected ATVA's views.

The Commission properly determined that the “unique challenges” faced by LPTV and TV translators justify exempting them from the simulcast requirement.<sup>2</sup> LPTV and TV translators, which serve fewer viewers than full power stations, are often resource-constrained. As a result, the cost of simulcasting would be relatively much greater on LPTV and TV translators. Moreover, as the Commission recognized in the Order, LPTV and translators are still facing the challenges from the digital transition and re-packing.<sup>3</sup> An ATSC 1.0 simulcasting

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<sup>2</sup> See Order, ¶ 41.

<sup>3</sup> See Order, ¶¶ 41-42.

requirement on top of those challenges would seriously threaten the future viability of LPTV and translators and would prevent many from upgrading to ATSC 3.0.<sup>4</sup>

Any regulatory burden that discourages or prevents LPTV and translators from converting to ATSC 3.0 will have a disproportionate effect on the ultimate success of the 3.0 rollout. The Order properly recognizes the importance of LPTV and translators to the upcoming transition:

LPTV stations that elect to transition directly and to serve as ATSC 3.0 host stations could thus play a significant role in facilitating the conversion to 3.0 technology. While viewers without ATSC 3.0-compatible equipment would lose access to LPTV and TV translator station that elect to transmission directly, these station may also provide innovating 3.0 programming that could help drive consumer adoption of such equipment. Thus, on balance, we believe that the benefit of permitting these stations to transition direction outweighs the potential harm.<sup>5</sup>

If anything, the Commission understates the roll LPTV and translators will play. Today, scores of LPTV are already planning to convert to ATSC 3.0. In many instances, an LPTV or translator will be the ideal ATSC 3.0 host station for a full power station. By converting an LPTV to 3.0, the full power owner does not risk losing any of its larger audience or advertising base, yet it will also be able to enjoy all the benefits of 3.0. For many full power stations, LPTV will serve as the second channel that drives the 3.0 transition. Another driver of the 3.0 transition will be the hundreds of unbuilt LPTV construction permits that soon will go online in 3.0. Forcing these permittees to find an ATSC 1.0 simulcast partner before they can commence service in 3.0 would make no sense, and the Commission properly rejected that requirement.

LPTV and translators will be a key lynchpin in the ATSC 3.0 transition. By providing added flexibility to LPTV and translator licensees, the Order significantly increases the chances of success of the ATSC 3.0 transition. The Petition provides no new argument for why the

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<sup>4</sup> See *Id.*

<sup>5</sup> See Order, ¶ 43.

Commission should undo its prior decision. Indeed, doing so would cause far more harm than good.

ATVA attempts to downplay the crippling effect its Petition would have on the ATSC 3.0 transition by claiming that affected LPTV and translators could obtain a waiver of the simulcast requirement. The costs of this waiver scheme, however, would be daunting. Many LPTV and translator owners simply don't have the resources to petition the FCC for a waiver of its rules. Moreover, the uncertainty inherent in a waiver process would discourage others from trying. Finally, ATVA simply ignores the immense burdens on the Commission's staff with thousands of waiver requests and processing delays.

Ultimately, ATVA seems most concerned with the prospect of a handful of "Big 4" affiliated LPTV converting to ATSC 3.0 without a simulcast partner. The Commission, however, carefully weighed ATVA's concerns in its Order and rejected them.<sup>6</sup> Requiring thousands of simulcast waiver petitions because a few Big 4 affiliated LPTV might convert to ATSC 3.0 is the regulatory equivalent of killing a fly with a bazooka. But even worse, it is unnecessary. Market conditions almost certainly will require a Big 4 LPTV to find a simulcast partner to continue serving its ATSC 1.0 viewers.<sup>7</sup> Advertising remains the lifeblood of any Big 4 LPTV. It would be irrational for a network affiliated LPTV to wholly abandon its legacy ATSC 1.0 audience and the advertising revenue associated with it. ATVA's burdensome waiver regime is a solution in search of a problem. The Commission rejected ATVA's arguments in its Order, and, even with a second bite at the apple in its Petition, ATVA still is unable to show any material error in the Commission's decision.

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<sup>6</sup> See Order, ¶ 45.

<sup>7</sup> See Order, n.132 ("Network affiliates may also have contractual obligations that limit their ability to transition directly.").

## CONCLUSION

The Alliance applauds the Commission's work in this matter to expedite innovation and technological advances. In his speech this week at the National Association of Broadcasters Convention, Chairman Pai captured it perfectly when he said, "by allowing use of this standard on a voluntary, market-driven basis, we've opened the door to a substantially improved, free, over-the-air television broadcast service and fiercer competition in the video marketplace."<sup>8</sup> This unquestionably serves the public interest. ATVA, by contrast, offers no solutions that would improve the careful balance that the Commission struck in the Order. Its proposals would slow the process of innovation without countervailing benefits. The Commission has already rejected ATVA's policy requests in a sound decision based on a well-developed record. The ATVA's rehashed arguments have not improved with age. Accordingly, the Alliance asks that the Commission again reject the ATVA's anti-innovation, anti-consumer proposals and allow the ATSC 3.0 transition to proceed without undo regulatory interference.

Respectfully Submitted,

**Advanced Television  
Broadcasting Alliance**  
1511 S Chestnut St  
Lufkin Texas 75901



Robert Folliard, Board Chairman  
Lee Miller, Executive Director

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<sup>8</sup> FCC Chairman Pai's speech to the National Association of Broadcasters Convention, April 10, 2018. See <https://www.fcc.gov/document/chairman-pai-speech-national-association-broadcasters>