

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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

To: The Commission

**COMMENTS OF PUBLIC MEDIA COMPANY**

Public Media Company (“PMC”) respectfully submits these comments in response to the Notice of Proposed Rulemaking (“NPRM”) issued on February 24, 2017, in the above-captioned proceeding.<sup>1</sup>

PMC is a national non-profit strategic consulting company that fosters public media growth.<sup>2</sup> PMC is leading the way in supporting the voluntary adoption of the next generation television standard by working with public television stations to prepare them for ATSC 3.0 (hereinafter “Next Gen TV” or “ATSC 3.0”) through education, engagement, and assistance with financing. Over the past six months, PMC has conducted educational workshops in Baltimore, Detroit, and Las Vegas for public television senior station executives.<sup>3</sup> Additionally, at the beginning of this year, PMC released a report titled “Next Generation Digital Television: New

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<sup>1</sup> *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, Notice of Proposed Rulemaking, 32 FCC Rcd 1670 (2017).

<sup>2</sup> PMC was founded in 2001 as a 501(c)(3) for the purpose of strengthening and expanding public broadcasting services in communities nationwide so that people have greater program choices for in-depth information; national, regional and local news; diverse music and cultural programming. PMC has advised more than 300 public television and radio stations and organizations on business plans, acquisitions, and other initiatives that drive innovative, sustainable public media growth. In 2014, PMC broadened its mission to include the execution of collaborative partnerships like VuHaus (a music video site run in partnership with 10 public radio stations) and Channel X, a video content exchange for sharing and licensing independent news and programming for broadcast and digital delivery.

<sup>3</sup> <http://www.publicmedia.co/pub-tv-leaders-learn-about-new-digital-television-standard/>.

Pathways to Grow Service.”<sup>4</sup> PMC recently secured \$20 million for a loan fund to assist public television stations with financing needs for Next Gen TV conversion costs and equipment upgrades.<sup>5</sup> PMC is also organizing a working group of public stations to create an agenda of immediately viable public services that non-commercial educational (“NCE”) stations can offer *via* Next Gen TV. And most recently, PMC presented at PBS TechCon in Las Vegas to help educate public broadcasters about the new standard.<sup>6</sup>

PMC is excited for Next Gen TV and believes that Next Gen TV represents transformative technology that will result in significant opportunities for broadcasters, viewers, and communities. PMC appreciates the opportunity to comment on the NPRM and strongly urges the FCC to adhere to the following three recommendations in developing its regulations and policies for the transition to the Next Gen TV standard:

- Provide as much flexibility as possible for NCE stations to serve as hosts for other stations as those other stations simulcast their programming using the current broadcasting standard (“ATSC 1.0”);
- Provide as much flexibility as possible for NCE stations themselves to transition to Next Gen TV; and
- Provide as much flexibility as possible for stations to use auction repack reimbursements for Next Gen TV-capable equipment.

If the FCC adopts these three recommendations, public broadcasters will be able to engage to the fullest extent possible to facilitate the transition to Next Gen TV by serving as host stations and NCE stations will also be able themselves to innovate and serve as early adopters of Next Gen TV.

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<sup>4</sup> <http://www.publicmedia.co/next-generation-digital-television-new-pathways-to-grow-service/>.

<sup>5</sup> <http://www.publicmedia.co/public-television-financing-program/>.

<sup>6</sup> <http://current.org/2017/04/attendees-at-pbs-techcon-hear-details-of-atsc-standards-promise/>.

**I. Provide as Much Flexibility as Possible for NCE Stations to Serve as Hosts for ATSC 1.0 Simulcasts.**

In the NPRM, the FCC proposes that any station choosing to deploy Next Gen TV must arrange for another station in the same local market to serve as a “host” station for the simulcast of the Next Gen TV station’s programming using an ATSC 1.0 signal in order to reduce disruption to viewers during the transition to the new standard.<sup>7</sup> Public television stations are ideal partners to host the ATSC 1.0 simulcast programming of commercial stations converting to ATSC 3.0 because they are not perceived as competitors for advertising revenue. Their commitment to public service has earned them the trust of their communities and fellow broadcasters. Accordingly, the FCC should provide as much flexibility as possible for NCE stations to serve as ATSC 1.0 hosts in order to facilitate maximal participation by NCE stations.

The FCC should adopt a simulcast approach similar to how the Commission addressed temporary channel-sharing arrangements during the incentive auction. By treating ATSC 1.0 and ATSC 3.0 simulcast signals as operating under the license of the originating station, not the host station, the originating station could retain licensee responsibilities for its content regardless of the transmission technology by which it is distributed. PMC agrees with the Commission that treating hosted simulcast programming as a linked, but separately licensed, second signal of an originating station will allow public broadcasters to host commercial licensees during the Next Gen TV transition and still remain in compliance with the advertising prohibitions in Section 399B of the Communications Act, which generally prohibit NCE stations from broadcasting announcements that promote the “service, facility, or product” of a for-profit entity.<sup>8</sup> PMC also agrees with the Commission’s conclusion that any alternative whereby a host station would be deemed to broadcast another station’s ATSC 1.0 programming as one of the host station’s own

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<sup>7</sup> ATSC 3.0 NPRM at 1671 ¶ 2.

<sup>8</sup> ATSC 3.0 NPRM at 1679 ¶ 18.

multicast streams would preclude NCE stations from serving as hosts because of the Section 399B restrictions.<sup>9</sup> Additionally, PMC agrees that the Commission's proposed simulcast approach would create regulatory certainty that would enable NCE stations to serve as hosts with confidence that they would not be exposed to serious violations of Commission regulations.<sup>10</sup> It is for exactly these reasons that PMC supports the proposed simulcast approach, or some other similarly flexible procedure which would also allow NCE stations to serve as hosts without any risk of running afoul of Section 399B or other regulatory restrictions. For example, it should be clear that by serving as host, an NCE station would not violate the sponsorship restrictions established by 47 C.F.R. 73.621(d). A simulcast approach would also ensure that regulatory responsibility for the hosted ATSC 1.0 programming would lie with the originating broadcaster rather than the host station.

However, PMC cautions the Commission to implement the simulcast approach with as few regulatory burdens as possible. Specifically, PMC opposes any proposal to require hosted originating stations to first seek a construction permit before a license can be modified to reflect a hosting arrangement. There is no need for a construction permit here. The Commission should allow hosted stations to modify their licenses through a one-step license modification process using the existing FCC license application form. The Commission should also direct the staff to process such license modification forms expeditiously. Finally, in order to avoid viewer confusion, the FCC should permit host stations to use PSIP channel displays and station identification information to display the originating station's channel number on television sets rather than the host station's channel number.

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<sup>9</sup> ATSC 3.0 NPRM at 1679-80 ¶ 19-20.

<sup>10</sup> ATSC 3.0 NPRM at 1679-80 ¶ 20-21.

Just as the FCC determined that commercial and NCE stations should have “maximal flexibility” in negotiating channel-sharing arrangements during the incentive auction, there is a similar need for “maximal flexibility” during the Next Gen TV transition for hosting arrangements necessary for the preservation of ATSC 1.0 broadcasts.<sup>11</sup> Accordingly, the FCC should allow geographic flexibility by requiring host ATSC 1.0 stations to *substantially cover* the originating station’s community of license, while at the same time recognizing that the simulcast ATSC 1.0 signal may not necessarily cover the identical area as the originating station’s ATSC 3.0 signal. This flexibility is especially necessary in rural areas where geographic rigidity could significantly hold back deployment of Next Gen TV. PMC notes that under this arrangement, hosting agreements during the ATSC 3.0 transition would not implicate the “fair, efficient, and equitable” distribution of television service under Section 307(b) of the Communications Act.<sup>12</sup> Hosting agreements would not result in any allocation changes or changes to the Table of Allotments. Accordingly, hosted simulcasting of ATSC 1.0 programming would have no impact on the “fair, efficient, and equitable” distribution of television service and therefore no implication for Section 307(b).

Additionally, the Commission must provide necessary flexibility regarding the content, format, and resolution requirements for simulcast ATSC 1.0 programming. Although the NPRM suggests that the Commission may require that ATSC 1.0-hosted programming be identical in content to ATSC 3.0 programming, such rigidity likely would not be feasible and certainly would not serve the public interest.<sup>13</sup> For starters, ATSC 3.0 broadcasting may contain elements

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<sup>11</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567 at 6854-6855 ¶¶ 703-704 (2014); *Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF*, Report and Order, 27 FCC Rcd 4616 at 4628-4629 ¶¶ 23-24 (2012).

<sup>12</sup> ATSC 3.0 NPRM at 1684 ¶ 25 & n.55.

<sup>13</sup> ATSC 3.0 NPRM at 1676-77 ¶ 11.

linked to new technology like interactivity that ATSC 1.0 broadcasting is unable to replicate. In addition, initial programming offered on a station's ATSC 3.0 signal might not be as robust as the ATSC 1.0 hosted programming while broadcasters prudently test out the new technology. Finally, ATSC 3.0 should be given the freedom to live up to its potential as a dazzling new technology, that potential should include the possibility of transmitting different content and exploring different forms of communications. The FCC should be careful not to place any unnecessary regulatory impediments in the way of encouraging as much simulcasting as possible. It is unnecessary for the Commission to specify what hosted simulcast originators need to provide on their ATSC 1.0 streams because, just as they do now, broadcasters will have every incentive to produce the highest quality programming in order to attract and serve viewers. Ultimately, broadcasters should only be required to maintain a single primary standard-definition (SD) ATSC 1.0 programming stream.

**II. Provide as Much Flexibility as Possible for NCE Stations to Transition to Next Gen TV.**

PMC supports the FCC's proposal to incorporate only the physical layer ("A/321") of the Next Gen TV standard into the Commission's rules and authorize Next Gen TV transmission on a voluntary basis through a phased deployment process over a number of years.<sup>14</sup> The FCC should incorporate A/321 into Commission rules, but specifying beyond A/321, or even including A/322, would constrain the uses of ATSC 3.0 and hold television broadcasters back from flexibly evolving Next Gen TV in the future. PMC applauds Commissioner O'Rielly's statement on the NPRM, indicating that he "want[s] to leave as much flexibility as possible for the industry to innovate and change in the future to meet consumer demands."<sup>15</sup> Accordingly,

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<sup>14</sup> ATSC 3.0 NPRM at 1674 ¶ 5.

<sup>15</sup> ATSC 3.0 NPRM at 1723

the FCC should grant as much flexibility as possible for public broadcasters to flash cut to Next Gen TV in certain circumstances.

Where NCE broadcasters are serving areas with no host station available that could provide substantial coverage of the originating station's community of license, flash cutting to Next Gen TV may be the only practical solution. Especially in areas where NCE broadcasters provide the only over-the-air ("OTA") service, viewers should not be deprived of the benefits of Next Gen TV because there is no station available to host an ATSC 1.0 simulcast signal. So long as NCE stations provide their OTA viewers with converter devices at no cost, flash cutting to Next Gen TV may be the most efficient solution.

In the NPRM, the FCC specifically asked for unique circumstances that NCE and rural broadcasters face in offering Next Gen TV services and the Commission sought recommendations on what can be done to encourage participation by these entities.<sup>16</sup> The NPRM acknowledged that there could be challenges with finding simulcast partners.<sup>17</sup> In response, PMC urges the FCC to adopt its recommendations to allow as much flexibility as possible for NCE stations to transition to ATSC 3.0.

### **III. Provide as Much Flexibility as Possible to Use Incentive Auction Repack Reimbursements for Next Gen TV-Capable Equipment**

On April 13, 2017, the Commission's launched the 39 month post-auction channel repacking process.<sup>18</sup> During this process, almost 1,000 stations will be required to invest in new equipment to change their broadcast channel.<sup>19</sup> This repack period will likely be the best opportunity for stations to become ATSC 3.0-ready regardless of when a station might ultimately begin broadcasting Next Gen TV. The incremental cost to add Next Gen TV capability as part of

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<sup>16</sup> ATSC 3.0 NPRM at 1682 ¶ 26.

<sup>17</sup> *Id.*

<sup>18</sup> FCC Public Notice, DA 17-314, GN Docket No. 12-268 (rel. April 13, 2017).

<sup>19</sup> <http://fortune.com/2017/04/19/tv-stations-channels-faq/>.

a station's transmission equipment reconfiguration during the repack will be significantly less than doing so in the future outside of the repack.

PMC urges the FCC to allow as much flexibility as possible to use FCC spectrum auction repack reimbursement money for Next Gen TV-capable equipment. A rigid interpretation of allowable costs would be inconsistent with the FCC's stated enthusiasm for the new technology and provide a disincentive for stations that might otherwise make the decision to invest early in Next Gen TV-capable equipment. NCE stations with severe budget constraints would be disproportionately affected by a rigid interpretation of allowable reimbursements for transmission equipment. Without the appropriate flexibility for repack reimbursement funding, NCE stations could be financially bound to purchasing new equipment for the repack that would unnecessarily be destined for obsolescence in a comparatively short period of time once the transition to Next Gen TV is complete. The Commission should be flexible in providing repack reimbursement funding and only disallow those specific incremental costs that are directly associated with Next Gen TV capability.

#### **IV. Conclusion.**

PMC supports the FCC's proposal to approve the physical layer of ATSC 3.0 standard on a voluntary basis through a phased deployment process over a number of years.<sup>20</sup> Over the coming months, PMC will continue working, through in-person presentations, working groups, and through its curated collection of links, articles and related commentary in PMC's Next Gen TV resource center, to prepare public television stations to invest capital and management time in planning for the adoption of Next Gen TV.

However, PMC strongly urges the FCC to: (1) provide as much flexibility as possible for NCE stations to serve as hosts for ATSC 1.0 simulcasts for other stations that transition to the

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<sup>20</sup> ATSC 3.0 NPRM at 1674 ¶ 5.




Next Gen TV standard; (2) provide as much flexibility as possible for NCE stations to transition to Next Gen TV; and (3) provide as much flexibility as possible to use auction repack reimbursements for Next Gen TV-capable equipment.

Public broadcasters are a vital component of the transition to Next Gen TV and central to fulfilling the public interest services in education, public safety, and civic engagement envisioned once the Next Gen TV standard is fully adopted. PMC is confident that its recommendations will help ensure that NCE stations can play a vital and necessary role in facilitating the transition to Next Gen TV by serving both as host stations and as early adopters of the exciting innovations that will come with Next Gen TV.

Respectfully submitted,

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