Before the

Department of Commerce
National Telecommunications and Information Administration
1401 Constitution Avenue, NW
Washington, DC 20230

Rural and Small Market Access to Local Television Broadcast Signals	))))	Docket No. 000208032-0032-01

REPLY COMMENTS OF THE ASSOCIATION OF AMERICA'S PUBLIC TELEVISION STATIONS AND THE PUBLIC BROADCASTING SERVICE

The Association of America's Public Television Stations (APTS) and the Public Broadcasting Service (PBS) hereby submit their reply comments in the above captioned proceeding. On February 14, 2000, the National Telecommunications and Information Administration (NTIA) issued a Notice of Public Meeting and Request for Public Comment to explore the most effective means to ensure that viewers in rural and small communities receive the benefit of access to local programming through new technologies.[1] Specifically, NTIA solicited written comments on "any issue of fact, law or policy that may inform the U.S. Department of Commerce on rural and small market access to local television broadcast signals."[2]

On April 14, 2000, APTS and PBS submitted joint comments urging NTIA to recognize, among other things, that the secondary status of public television translator stations and the use of auctions for the spectrum on which they operate

[1] Notice of Public Meeting, Request for Public Comment, 65 Fed. Reg. 7362-7363 (February 14, 2000).

[2] Id.

threaten the universal delivery of free over-the-air public television services to rural and small markets. Other parties, including the Association of Local Television Stations, Inc. (ALTV), also stressed for the importance of translators in delivering valuable local services to rural and small markets.

In its joint comments, public television established that the existing system of television translators represents an established and efficient method of delivering new technologies to rural and small markets. Public television noted that 25 percent of noncommercial translators operate on channels 60-69 and that a significant number of other translator stations operate on channel 52-59— spectrum which the FCC plans to auction to the highest bidder in the near future, thus forcing translators to relocate to new spectrum. Moreover, because the spectrum used for noncommercial television translator services is not specifically reserved for noncommercial educational uses, the FCC plans to auction the channels on which these translator services hope to relocate. [3] Public television therefore urged NTIA to support an enhanced status for public television translators and to oppose the auction of spectrum for which public television translators have applied. [4]

Public television is hopeful that any policy adopted by NTIA will take into account the significance of public television translator service in the provision of free, over-the-air public telecommunications services to American citizens living in rural and small markets. Television translator stations play a vital role in providing public

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[3] Reexamination of the Comparative Standards for Noncommercial Educational Applicants, Report & Order, FCC 00-120, MM Docket No. 95-31 (released April 21, 2000), ¶106.

[4] Compounding the problem, at the time that these comments were submitted, the FCC decided that, while other low-power stations may apply for quasi-primary status as Class A low power television stations and be eligible for digital channels, television translators do not qualify and would remain a secondary service until further consideration. Establishment of a Class A Television Service, Report & Order, FCC 00-115, MM Docket 00-10 (adopted March 28, 2000, Released April 4, 2000), ¶33.

television services to rural, sparsely populated areas of the United States. Public television stations frequently use translators as the only economically and technically feasible means of providing public television service to thinly populated regions. Other public television stations also use translators to reach unserved areas outside their Grade B contours and to serve areas within their Grade B contours that cannot, due to terrain or other factors, receive a reliable signal.

A study conducted by the Corporation for Public Broadcasting in 1998 concluded that 12,085,306 American citizens are served by public television translators.[5] Of these, an estimated 2,551,714 citizens receive no other public television service. **Therefore, if these public television translators were lost, over 2.5 million American citizens living in rural and small markets would lose access to all free, over-the-air public television services**. This study establishes that the potential loss would affect not just a few scattered individuals in the aggregate, but entire communities, with smaller, more rural communities suffering the most. For instance, two communities of more than 100,000 each (229,785 total citizens), nine communities of 50,000 – 999,999 (573,627 total citizens), and 49 communities of 10,000 – 49,999 people (1,121,588 total citizens), would lose complete access to all local public television services.

In addition, it is likely that this estimate of 2,551,714 persons receiving their only public television service via translators is a conservative number. The CPB study notes that it is likely that many of the additional people served by translators could be categorized as "receiving no other public television service." The data does not allow us to determine the exact number of people, in otherwise served broadcast areas, who do not have access to public broadcast service because of terrain difficulties or other

[5] Jerry Ostertag, *Analysis of Impact of Elimination of Translators*, Corporation for Public Broadcasting, September 18, 1998.

local conditions creating holes or shadow areas in transmission, and who rely exclusively and solely on a translator delivered public television signal.

In summary, if translators are not protected and if all translators were lost following digital conversion, a minimum of 2,551,714 people in the contiguous U.S. would lose all over-the-air public television service. Additionally, it is likely that some additional percentage of the remaining 9,533,592 people served by translators in shadow areas of a primary transmitter would also be unable to receive any over-the-air public television service. The effect would be a tremendous loss of public affairs, cultural, informational, and children's programming in rural areas and small markets where such programming is needed and valued.

The importance of achieving universal access to public television services has been a goal of Congress for decades. In 1962 Congress adopted the Educational Television Facilities Act, authorizing funds for the construction of educational television stations to ensure service to "the greatest number of persons."[6] Congress reiterated this policy in the Public Broadcasting Act of 1967,[7] which provided additional funding to "improve the facilities and program quality of the Nation's educational broadcasting stations."[8] More recently, Congress enacted the public Telecommunications Facilities Act of 1992,[9] which added a new section to the Communications Act, declaring:

> [I]t is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate, available telecommunications distribution technologies.[10]

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[6] P.L. 87-447, §392(d), 76 Stat. 64, 66 (1962).

[7] 47 U.S.C. §390 (1994).

[8] S. Rep. No. 90-222, at 1 (1967), reprinted in 1967 U.S.C.C.A.N. 1772.

[9] P.L. No. 102-356, 106 Stat. 949 (1992) (codified as amended in scattered sections of 47 U.S.C.)

Use of television translators is key to realizing and sustaining the objective of nationwide service and universal access to public television services.

Conclusion

Based on this information, APTS and PBS request NTIA to adopt policies that keep in mind the importance of public television translators and to support primary status and reserved digital allotments for public television translators. Additionally, APTS and PBS urge NTIA to oppose the auction of spectrum for which public television translators apply.

Respectfully submitted,

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[10] 47 U.S.C. §396(a)(9). (emphasis added) This policy is also reflected in the Cable Television Consumer Protection and Competition Act of 1992, P.L. No. 102-385, 106 Stat. 1460 (codified as amended in scattered sections of 47 U.S.C.), which requires cable carriage of public television programming, 47 U.S.C. §615 (1994), and the reservation of capacity on direct broadcast satellites for "noncommercial …educational or informational" programming, 47 U.S.C. §335(b)(1994).