



Virginia Association of Broadcasters Legal Review



Brooks, Pierce, McLendon, Humphrey &
Leonard, LLP
Counsel to VAB • (919) 839-0300

250 West Main Street, Suite 100
Charlottesville, VA 22902 • (434)
977-3716

February 2, 2017

Legal Memorandum

Drafts of (1) ATSC 3.0 Notice of Proposed Rulemaking and (2) AM Revitalization Order Released By Chairman Pai to Improve Transparency

Thursday morning, February 2, FCC Chairman Ajit Pai released two draft documents that have been circulated to his fellow Commissioners in two proceedings of great interest to broadcasters: one is a rulemaking proposal on the transition to the “Next Generation” television standard, known as ATSC 3.0; the other is a proposed report and order in the AM Revitalization proceeding that would give AM radio broadcasters more flexibility in siting their FM translators. Both are discussed briefly below. (The documents released today are merely drafts; they may well change before the full Commission considers them, which is likely to occur at its next open meeting on February 23, 2017.)

The release of these drafts by Pai—who has only been Chairman since January 20—is part of a “pilot program” that he has launched to improve transparency at the agency. In Chairman Pai’s own words: “I want this Commission to be as open and accessible as possible to the American people. I want us to do a better job of communicating with those we are here to serve.” If this new process is successful, Chairman Pai expects to routinely release drafts of proposed rules to the public at the same time as they are provided to Commissioners.

A. ATSC 3.0 “Next Generation” TV

In the [draft Notice of Proposed Rulemaking](#) (“Draft Notice”), the FCC proposes to authorize television broadcasters to use the Next Generation broadcast television transmission standard, ATSC 3.0, on a voluntary, market-driven basis, while stations continue to deliver their current-generation digital television broadcast service, ATSC 1.0, to viewers. The Draft Notice seeks to adopt rules that would allow broadcasters flexibility in deploying ATSC 3.0-based

transmissions, while at the same time seeking to minimize the impact on and costs to the public and to other stakeholders.

Among other things, the Draft Notice proposes to (1) authorize broadcasters to voluntarily deploy ATSC 3.0; (2) require “local simulcasting” for stations that choose to deploy ATSC 3.0 transmissions so that viewers will continue to receive ATSC 1.0-based services; and (3) require MVPDs to continue carrying broadcasters’ ATSC 1.0 signals, but not their ATSC 3.0 signals, during the period of time that television broadcasters “transition” from ATSC 1.0 to ATSC 3.0. The Draft Notice comes in response to a joint petition filed in April 2016 by a coalition of broadcasters and tech companies that asked the Commission to approve a voluntary, market-driven transition to the Next Generation transmission standard.

B. AM Revitalization—Siting of FM Translators for AM Stations

A [draft Second Report and Order](#) (“Draft Order”) in the AM Revitalization proceeding proposes to relax the limits on where an AM station may locate its FM translator. More specifically, the Draft Order proposes to change the current FM translator siting rule to provide that an FM translator rebroadcasting an AM station must be located such that the 60 dBu contour of the FM translator station is contained within the greater of either (1) the 2 mV/m daytime contour of the AM station, or (2) a 25-mile radius centered at the AM station’s transmitter site. (The current rule requires that the FM translator be contained within the smaller of those two options.) According to the Draft Order, adoption of the proposed amendment to the rule would provide flexibility to AM stations using FM translators to serve their core markets while not extending their signals beyond their core service areas. The Draft Order also observes that the FCC plans to act on other AM Revitalization matters in the future.

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When the Commission adopts a Notice of Proposed Rulemaking in the ATSC 3.0 proceeding and a Second Report and Order in the AM Revitalization proceeding, we will report further on the implications for broadcast stations.

If you have any questions concerning the information discussed in this memorandum, please contact your communications counsel or any of the undersigned.

Stephen Hartzell, Editor

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.

Wade H. Hargrove
Mark J. Prak
Marcus W. Trathen
David Kushner
Coe W. Ramsey
Charles E. Coble
Charles F. Marshall
Stephen Hartzell
J. Benjamin Davis
Julia C. Ambrose
Elizabeth E. Spainhour
Eric M. David
Timothy G. Nelson

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