



Virginia Association of Broadcasters Legal Review



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Legal Memorandum

FCC Officially Launches ATSC 3.0 Rulemaking Proceeding and Relaxes Geographic Restrictions on Siting of FM Translators for AM Stations

Thursday morning, February 23, 2017, at its monthly meeting, the Commission took action in two proceedings of great interest to broadcasters: (1) the FCC formally launched its rulemaking proceeding on the transition to the “Next Generation” television standard (i.e., ATSC 3.0); and (2) the FCC amended the rule that restricts the geographic area in which an AM station may site an FM translator. As of the distribution of this memorandum, the FCC has not released the complete, final documents for these actions, which means the discussion below is limited.

A. Proposal to Adopt ATSC 3.0 “Next Generation” TV

The FCC has unanimously adopted a Notice of Proposed Rulemaking (“Notice”) that seeks to allow 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 Notice proposes 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 other stakeholders.

Among other things, the Notice proposes rules that, if adopted, would (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 will still be able to use their existing televisions); and (3) require MVPDs to continue carrying broadcasters’ ATSC 1.0 signals, but not their ATSC 3.0 signals, during the period of time during which television broadcasters “transition” to ATSC 3.0 from ATSC 1.0.

The Notice also tentatively concludes that a Next Generation television tuner mandate for new television receivers is not needed at this time, and that the public interest obligations to which television broadcasters are currently subject should also apply to stations offering ATSC 3.0. The Notice asks for comment on issues relating to MVPDs' voluntary carriage of Next Generation television signals through retransmission consent, and on whether ATSC 3.0 transmissions will raise interference concerns for existing services, including DTV operations.

When the FCC releases the text of the Notice, we will follow up with more information, including comment and reply comment deadlines.

B. AM Revitalization—Expansion of FM Translator Site Locations for AM Stations

The FCC has also unanimously adopted a Second Report and Order (“Order”) in the AM Revitalization proceeding to amend the FM translator siting rule—expanding the site locations where FM translators can rebroadcast AM radio stations and providing those stations greater flexibility to place FM translators where listeners will be better served.

Under the existing rule, an AM station could place a rebroadcasting FM translator either within its daytime service contour or within a 25-mile radius of its transmitter, whichever distance is less. The new rule will allow the rebroadcasting FM translator to be located anywhere within the AM station's daytime service contour or anywhere within a 25-mile radius of the transmitter, even if the contour extends farther than 25 miles from the transmitter.

The Commission found that the current rule proved too restrictive for some AM broadcasters, particularly for those stations whose transmitters are located far away from their communities of license. The rule change should be especially helpful to AM stations who have been forced to relocate to sites far away from the cities they serve in order to find available, affordable land for their transmission systems. In addition, the new rule should provide flexibility to AM stations using FM translators to serve their core markets while not extending their signals beyond their core service areas.

The new rule is not yet in effect; we will know more about the effective date once the text of the Order is released. It is not yet known whether this new flexibility will be effective in time for the windows for new FM translators for AM stations that the FCC will reportedly open in 2017.

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We will report further on the implications of the Commission's actions after the FCC releases the text of the ATSC 3.0 Notice and the FM Translator Order.

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

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