

**FCC FACT SHEET\***

**Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard**  
Fifth Further Notice of Proposed Rulemaking – GN Docket No. 16-142

**Background:** Next Gen TV (which uses the “ATSC 3.0” or “3.0” standard) is the future of broadcast television. ATSC 3.0 promises to revitalize the nation’s free, local, over-the-air television service, which serves as a source of local news and information for many Americans. The standard is capable of enabling improvements in picture quality, audio clarity, interactive features, and public safety and accessibility capabilities as compared to the current digital television standard (“1.0”).

The *Fifth Further Notice of Proposed Rulemaking* would take steps to support and accelerate the nation’s ongoing voluntary, market-based broadcast television transition to Next Gen TV. We propose to remove regulatory obstacles and give additional flexibility to broadcasters. In addition, we seek comment on how to minimize the costs and impact of this transition on all stakeholders, including consumers, manufacturers, MVPDs, and smaller broadcasters.

**What the Fifth Further Notice of Proposed Rulemaking Would Do:**

- Tentatively conclude that television stations should be allowed to choose when to stop broadcasting in 1.0 and start broadcasting exclusively in 3.0.
- Tentatively conclude that television stations should be allowed to broadcast in both 1.0 and 3.0 (or “simulcast”) as many are doing today, but with fewer restrictions and requirements on the 1.0 version of their signal.
- Seek comment on certain issues and proposals closely related to these tentative conclusions, including: the use of encryption or digital rights management (DRM) on broadcast signals; a requirement that new televisions be able to receive and display 3.0 signals; and a requirement that traditional pay TV providers carry 3.0 signals to their subscribers.
- Seek comment on other outstanding Next Gen TV issues, including:
  - The sunset of 1.0 service;
  - The status of certain technical standards in FCC rules;
  - Options to offset consumer costs;
  - 3.0 test markets;
  - Accessibility;
  - Emergency alerting;
  - The fundamental use of broadcast spectrum;
  - Privacy;
  - Notice requirements; and
  - The state of the market for essential 3.0 patents.
- Seek comment on any other matters related to the 3.0 transition.

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\* This document is being released as part of a “permit-but-disclose” proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in GN Docket No. 16-142, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs/>). Before filing, participants should familiarize themselves with the Commission’s *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR § 1.1200 *et seq.*

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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

FIFTH FURTHER NOTICE OF PROPOSED RULEMAKING\*

Adopted: [] Released: []

Comment Date: [60 days after date of publication in the Federal Register]  
Reply Comment Date: [90 days after date of publication in the Federal Register]

By the Commission:

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\* This document has been circulated for tentative consideration by the Commission at its October 28, 2025 open meeting. The issues referenced in this document and the Commission’s ultimate resolutions of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Chairman has determined that, in the interest of promoting the public’s ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The Commission’s *ex parte* rules apply and presentations are subject to “permit-but-disclose” *ex parte* rules. See, e.g., 47 CFR §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR §§ 1.1200(a), 1.1203.

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## I. INTRODUCTION

1. America’s television broadcasters are in the midst of a transition. They are shifting to a new standard in broadcasting that can deliver significant and new benefits to consumers across the country. Indeed, Next Gen TV, also called ATSC 3.0, represents the future of broadcast television. Next Gen TV promises to revitalize the nation’s free, local, over-the-air (OTA) television service, which serves as a vital source of local news and information for many Americans, by enabling significant improvements in picture quality, audio clarity, interactive features, and public safety and accessibility capabilities.<sup>1</sup> We believe this will enable broadcasters to remain competitive in the video marketplace for years to come. To achieve this future, broadcasters have undertaken a complex and challenging technological transition without the allocation of additional spectrum. Broadcasters have made progress toward this transition, having launched ATSC 3.0 (or “3.0”) service in more than 90 markets that include more than 70 percent of the country’s population.<sup>2</sup> Actions proposed today support continued progress in the ongoing transition to ATSC 3.0.

2. Herein we take steps to support and accelerate the nation’s ongoing market-based broadcast television transition to ATSC 3.0. We propose to remove unnecessary regulatory obstacles and give substantial flexibility to broadcasters because at this point in the transition they are best positioned to determine how to continue to serve their viewers while rolling out 3.0 services. Most notably, we propose to end the simulcasting requirement. In addition, we seek comment on how to minimize the costs and impact of this transition on all stakeholders, including consumers, manufacturers, MVPDs, and smaller broadcasters.

## II. BACKGROUND

3. In 2017, the Commission authorized television broadcasters to use the ATSC 3.0 transmission standard on a voluntary, market-driven basis.<sup>3</sup> The Commission required that any

<sup>1</sup> Petition for Rulemaking of the National Association of Broadcasters, GN Docket No. 16-142 (filed Feb. 26, 2025) at 41 (Petition).

<sup>2</sup> Based on a review of internal Commission data. This data reflects 3.0 services offered by over-the-air television stations, but does not reflect the adoption of 3.0 by other stakeholders (i.e., consumers, manufacturers, and multichannel video programming distributors (MVPDs)).

<sup>3</sup> *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930, 9931, para. 1 (2017) (*First Next Gen TV Report and Order*). Next Gen TV is the new digital TV transmission standard being broadcast by many stations across the country alongside their standard digital TV signals. This Internet Protocol-based standard was developed by the Advanced Television Systems Committee (ATSC) with the intent to eventually replace the current digital television standard, ATSC 1.0. It “merges the capabilities of over-the-air broadcasting with the broadband viewing and information delivery methods of the Internet, using the same 6 MHz channels presently allocated for DTV service.” *Id.* As 3.0 proponents have previously explained to the Commission, the greater spectral capacity of the new standard and its Internet-Protocol delivery component will allow broadcasters to provide consumers with a higher quality television viewing experience, such as ultra-high-definition (UHD) picture resolutions and immersive audio. It also has the potential to enable broadcasters to reach viewers on both home and mobile screens. In addition, ATSC 3.0 will allow broadcasters to offer enhanced public safety capabilities, such as geo-targeting of emergency alerts to tailor information to particular communities and emergency alerting capable of waking up sleeping devices to warn consumers of imminent emergencies, as well as greater accessibility options, localized content, and interactive educational children’s content. *See* ATSC, *Spotlight ATSC 3.0*, <https://www.atsc.org/nextgen-tv/> (last visited July 9, 2025) (listing key features of 3.0 and providing a video describing the 3.0 service); *Promoting Broadcast Internet Innovation through ATSC 3.0*, MB Docket No. 20-145, Report and Order, 35 FCC Rcd 14492, 14493, para. 4 (2020) (*Broadcast Internet Order*); *First Next Gen TV Report and Order*, 32 FCC Rcd at 9933-34,

(continued....)

broadcaster voluntarily deploying ATSC 3.0 service must, with very limited exceptions,<sup>4</sup> continue to air at least their primary stream using the current-generation TV transmission standard, also called “ATSC 1.0” or “1.0.”<sup>5</sup> This is because the Next Gen TV standard is not backward-compatible with most existing TV sets or receivers, which have only ATSC 1.0 and analog tuners.<sup>6</sup> Because a TV station cannot, as a technical matter, simultaneously broadcast in both 1.0 and 3.0 format from the same facility on the same physical channel, “local simulcasting” must be effectuated through partnerships that broadcasters seeking to provide Next Gen TV service enter into with other broadcasters in their local markets.<sup>7</sup> The Commission, however, intended that the local simulcasting requirement be temporary.<sup>8</sup>

4. Prior to deploying 3.0 service, stations must file an application with the Commission to modify their existing license and receive Commission approval.<sup>9</sup> Review of applications to deploy ATSC 3.0 service includes consideration of the coverage that would be provided by a Next Gen TV station’s ATSC 1.0 simulcast signal.<sup>10</sup> The Commission sought to minimize disruption to viewers resulting from the deployment of ATSC 3.0 while recognizing that if a station moves its ATSC 1.0 signal to a partner simulcast host station with a different transmitter location, some OTA viewers may no longer be able to

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para. 4. The Commission refers to the innovative non-traditional services that Next Gen TV broadcasters may provide over broadcast spectrum as “Broadcast Internet” services to distinguish them from traditional over-the-air video services. *Broadcast Internet Order*, 35 FCC Rcd at 14492, n.1. Such services are also referred to as “ancillary or supplementary services.” See, e.g., 47 CFR § 73.624(c); 47 U.S.C. § 336; see also *infra* para 66 (seeking comment on the minimum level of broadcast service after a station transitions to 3.0).

<sup>4</sup> LPTV and TV translator stations may deploy ATSC 3.0 service without providing an ATSC 1.0 simulcast signal. *First Next Gen TV Report and Order*, 32 FCC Rcd at 9950, para. 40; 47 CFR § 74.782(c). In addition, full power and Class A stations may request a waiver of the simulcast requirements. *First Next Gen TV Report and Order*, 32 FCC Rcd at 9953, para. 46. To date, no such waivers have been requested.

<sup>5</sup> *Id.* at 9931, para. 1. Next Gen TV broadcasters are not required to simulcast their 3.0 multicast streams in a 1.0 format. *Id.* at 9937-38, para. 13 & n.40.

<sup>6</sup> *Id.* at 9939, para. 15.

<sup>7</sup> *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, GN Docket No. 16-142, Second Report and Order and Order on Reconsideration, 35 FCC Rcd 6793, 6794, para. 3 (2020) (*Second Next Gen TV Report and Order*); *First Next Gen TV Report and Order*, 32 FCC Rcd at 9937, para. 12; 47 CFR § 73.624(b)(3). A Next Gen TV station must partner with another television station (i.e., a temporary “host” station) in its local market to either: (1) air an ATSC 3.0 channel at the temporary host’s facility, while using its original facility to continue to provide an ATSC 1.0 simulcast channel, or (2) air an ATSC 1.0 simulcast channel at the temporary host’s facility, while converting its original facility to the ATSC 3.0 standard in order to provide a 3.0 channel. *First Next Gen TV Report and Order*, 32 FCC Rcd at 9937, para. 12; 47 CFR § 73.3801 (simulcasting rules for full power TV stations). In either case, a Next Gen TV broadcaster must simulcast the primary video programming stream of its ATSC 3.0 channel in an ATSC 1.0 format, so that viewers will continue to receive ATSC 1.0 service. *First Next Gen TV Report and Order*, 32 FCC Rcd at 9937, para. 12; 47 CFR § 73.3801(b) (simulcasting requirement). The Commission stated that, by the time the transition is complete, any temporary authority granted for local simulcasting will expire, and a station will once again be required to air all of its licensed programming on its own single channel. *First Next Gen TV Report and Order*, 32 FCC Rcd at 9938, n.46 and accompanying text. Low power television stations (LPTV) operating in 3.0 are not required to have a 1.0 simulcast. 47 CFR § 74.782(a).

<sup>8</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 9938, para. 14.

<sup>9</sup> See 47 CFR §§ 73.3801(f)(2), 73.6029(f)(2), 74.782(g)(2).

<sup>10</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 9945-46, paras. 29-31; 47 CFR §§ 73.3801(c); 73.6029(c). A Next Gen TV broadcaster must file an application and obtain Commission approval before a 1.0 simulcast channel or a 3.0 channel aired on a partner host station can go on the air, as well as before an existing 1.0 station can convert to 3.0 operation or back to 1.0 operation. *First Next Gen TV Report and Order*, 32 FCC Rcd at 9939, para. 48; 47 CFR §§ 73.3801(f)(2); 73.6029(f)(2); 74.782(g)(2).

receive the station's 1.0 signal unless they acquire a 3.0 capable television receiver.<sup>11</sup> Among other obligations, the Commission requires the Next Gen TV station to select a partner 1.0 simulcast host station that is assigned to its same designated market area (DMA) and from which it will continue to provide ATSC 1.0 simulcast service to its entire community of license.<sup>12</sup> The Commission also stated that an application demonstrating that the station would provide ATSC 1.0 simulcast service to at least 95 percent of the predicted population within the station's original noise limited service contour (NLSC) would be presumptively in the public interest and afforded "expedited processing."<sup>13</sup> All other applications require a more detailed public interest analysis by the Commission prior to action.<sup>14</sup>

#### A. Sunsets

5. *Substantially Similar Rule.* In the *First Next Gen TV Report and Order*, the Commission adopted a requirement that the programming aired on a Next Gen TV station's ATSC 1.0 simulcast channel be "substantially similar" to that of the primary video programming stream on the ATSC 3.0 channel.<sup>15</sup> This rule, which is distinct from the simulcasting requirement itself,<sup>16</sup> means that the programming on the two versions of the primary stream must generally be the same.<sup>17</sup> The rule was initially scheduled to sunset on July 17, 2023, and was extended to July 17, 2027.<sup>18</sup>

6. *Requirement to Comply with the ATSC A/322 Standard.* In authorizing use of the Next Gen TV broadcast transmission standard, the Commission in the *First Next Gen TV Report and Order* required compliance with only two parts of the ATSC 3.0 suite of standards: (1) A/321,<sup>19</sup> the standard used to communicate the RF signal type that the ATSC 3.0 signal will use; and (2) A/322,<sup>20</sup> the standard that defines the waveforms that ATSC 3.0 signals may take.<sup>21</sup> In requiring compliance with A/322, the Commission observed that "device manufacturers and MVPDs may not be able to reliably predict what signal modulation a broadcaster is using unless broadcasters are required to follow A/322," at least with respect to their required primary programming stream.<sup>22</sup> The Commission explained that "[t]his uncertainty could cause manufacturers to inadvertently build equipment that cannot receive Next Gen TV

<sup>11</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 9946, para. 30.

<sup>12</sup> *Id.* at 9945-46, paras. 29-31. See 47 CFR § 73.3801(c).

<sup>13</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 9947, para. 34. See 47 CFR §§ 73.3801(f)(5)-(6), 73.6029(f)(5)-(6); 74.782(g)(5)-(6); *infra* note 75 (discussing expedited processing standard).

<sup>14</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 9947, para. 34. See also 47 CFR §§ 73.3801(f)(6)(iii), 73.6029(f)(6)(iii), 74.782(g)(6)(iii).

<sup>15</sup> 47 CFR §§ 73.3801(b)(1), 73.6029(b)(1), 74.782(b)(1); *First Next Gen TV Report and Order*, 32 FCC Rcd at 9942-43, para. 22.

<sup>16</sup> 47 CFR §§ 73.3801(b), 73.6029(b), 74.782(b). The requirement for Next Gen TV broadcasters to simulcast their primary stream in 1.0 format does not have a sunset date.

<sup>17</sup> See *infra* note 69 (describing enhanced content or features that may be provided only on the 3.0 stream).

<sup>18</sup> *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, GN Docket No. 16-142, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 38 FCC Rcd 6409, 6434, para. 39 (2023) (*Third Report and Order and Fourth FNPRM*).

<sup>19</sup> See ATSC Standard A/321, "System Discovery & Signaling" (2016), <https://www.atsc.org/wp-content/uploads/2016/03/A321-2016-System-Discovery-and-Signaling.pdf>.

<sup>20</sup> See ATSC Standard A/322, "Physical Layer Protocol" (2016), <https://atsc.org/wp-content/uploads/2016/10/A322-2016-Physical-Layer-Protocol.pdf>.

<sup>21</sup> These two standards were incorporated by reference into the Commission's rules. See 47 CFR § 73.682(f).

<sup>22</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 9980, para. 99 (applying the A/322 standard only to a Next Gen TV station's primary, free, OTA video programming stream.).

broadcasts or could render MVPDs unable to receive and retransmit the signals of Next Gen TV stations. These outcomes would harm consumers.”<sup>23</sup> The Commission, however, decided that it was not appropriate at the time “to require broadcasters to adhere to A/322 indefinitely,” explaining that “the ATSC 3.0 standard could evolve, and stagnant Commission rules could prevent broadcasters from taking advantage of that evolution.”<sup>24</sup> The Commission thus determined that the requirement to comply with the A/322 standard would expire on March 6, 2023, which was later extended until July 17, 2027.<sup>25</sup>

**B. Media Bureau Public Notice on NAB Petition to Accelerate Transition and FOTVI Report**

7. In January 2025, the National Association of Broadcasters (NAB) filed a report summarizing the discussions and progress made through the Future of Television Initiative (FOTVI),<sup>26</sup> and in February 2025, NAB filed the Petition asking the Commission to “establish a clear timeline to complete the transition” to ATSC 3.0.<sup>27</sup> In April 2025, the Media Bureau issued a Public Notice seeking comment on NAB’s Petition, the FOTVI Report, and other related issues.<sup>28</sup> The Bureau received more than 900 comments and replies in response. The comment cycle closed on June 6, 2025.

8. *Petition.* NAB proposes that the Commission mandate a two-part deadline to complete the full-power 3.0 transition. Per the NAB proposal, full-power stations in the top 55 markets (available to about 70 percent of viewers in the country) would be required to transition fully to ATSC 3.0 (i.e., end all ATSC 1.0 broadcasting, including simulcasting) in February 2028, with limited waivers for “smaller,” independent, and noncommercial stations if necessary.<sup>29</sup> Full-power stations in the remaining markets would be required to transition fully to ATSC 3.0 in February 2030.<sup>30</sup> NAB contends that “[w]ithout decisive and immediate action, the transition risks stalling” and that “[r]eaching the finish line requires industry-wide coordination and engagement—something individual broadcasters cannot do alone.”<sup>31</sup>

9. NAB also proposes that the Commission impose a mandate on television manufacturers to “ensur[e that] consumers who buy new TVs can continue receiving broadcast programming.”<sup>32</sup> Specifically, NAB asks the Commission to amend section 15.117 of its rules to require that all TV broadcast receivers include 3.0 tuners, pursuant to the Commission’s authority under the 1962 All Channel Receiver Act (ACRA).<sup>33</sup> According to NAB, “[b]roadcasters would support removing the

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 9980, para. 100.

<sup>25</sup> *Third Report and Order and Fourth FNPRM*, 38 FCC Rcd at 6440, para. 46.

<sup>26</sup> See Letter from Rick Kaplan, Chief Legal Officer and Executive Vice President, National Association of Broadcasters, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 16-142 (filed Jan. 17, 2025) (NAB Letter) and attached Future of Television Initiative Report (FOTVI Report). See *infra* para. 11.

<sup>27</sup> See *supra* note 1.

<sup>28</sup> *Media Bureau Seeks Comment on Petition for Rulemaking and Future of Television Initiative Report Filed By The National Association of Broadcasters to Facilitate Broadcasters’ Transition to NEXTGEN TV*, Public Notice, DA 25-314 (MB Apr. 7, 2025) (*MB April 7 PN*). Among other things, the Bureau sought comment on the use of MPEG-4 compression for 1.0 simulcast signals and the use of Digital Rights Management (DRM) encryption on 3.0 signals.

<sup>29</sup> Petition at 3.

<sup>30</sup> *Id.* at 3. NAB “does not recommend subjecting low power television (LPTV) stations or TV translator stations to any requirement to transition to ATSC 3.0.” *Id.* at 17.

<sup>31</sup> *Id.* at 1.

<sup>32</sup> *Id.* at 3.

<sup>33</sup> *Id.* at 18. Section 15.117(b), the rule implementing the Commission’s authority under the 1962 All Channel Receiver Act (ACRA), states that “TV broadcast receivers shall be capable of adequately receiving all channels allocated by the Commission to the television broadcast service.” 47 CFR § 15.117(b). The term “TV broadcast

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requirement to include an ATSC 1.0 tuner after the date at which all full-power and class A broadcasters cease transmitting in ATSC 1.0.”<sup>34</sup> NAB also requests that the Commission re-examine what it means to “adequately receive” television channels,<sup>35</sup> as well as “consider adopting a requirement that television receivers make broadcast services available to a consumer in the same or fewer steps needed to access any other video content on the same device.”<sup>36</sup>

10. In addition, NAB asks the Commission to consider whether updates to the MVPD carriage rules are necessary. NAB indicates that some rules, particularly those related to must carry signals, may need to be revised, such as the “good quality signal” rule.<sup>37</sup> Further, NAB asks the Commission to clarify and/or update certain rules to accelerate deployment.<sup>38</sup> NAB argues that the Commission should relax the 95 percent coverage requirement for expedited application processing and clarify that this coverage requirement should not apply to multicast streams. NAB also urges the Commission to act now to eliminate the “substantially similar” requirement, rather than wait for the scheduled sunset in 2027.<sup>39</sup> Finally, NAB suggests that the Commission should update the incorporations by reference in the rules to the current versions of the ATSC 3.0 standards, ATSC A/321 and ATSC A/322, and may want to consider a variety of other possible changes.<sup>40</sup>

11. *Future of Television Initiative Report.* Launched in April 2023 by NAB, the FOTVI gathered industry, public interest stakeholders, and government<sup>41</sup> to work on a roadmap for the transition of television broadcast from the currently required ATSC 1.0 protocol to ATSC 3.0.<sup>42</sup> The FOTVI Report summarizes the discussions of three working groups, which addressed (1) backwards compatibility, tuner availability and consumer issues; (2) completing the transition; and (3) post-transition regulation.<sup>43</sup> NAB

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receivers” includes “devices, such as TV interface devices and set-top devices that are intended to provide audio-video signals to a video monitor, that incorporate the tuner portion of a TV broadcast receiver and that are equipped with an antenna or antenna terminals that can be used for off-the-air reception of TV broadcast signals, as authorized under part 73 of this chapter.” *Id.* § 15.117(a).

<sup>34</sup> Petition at 18.

<sup>35</sup> *Id.* at 19.

<sup>36</sup> *Id.* at 19-20 (“For example, if there is a button on the remote to access online services, there should be a button on the remote to access broadcast television. If there is a menu in the user interface that displays content sources, broadcast should be, by default, placed among the first page of content sources.”).

<sup>37</sup> *Id.* at 21. See 47 CFR §§ 76.55(c)(3) and 76.66(g).

<sup>38</sup> Petition at 25.

<sup>39</sup> *Id.* at 27. See also *supra* para. 5 (discussing that the substantially similar requirement is set to expire on July 17, 2027, unless the Commission acts to extend it).

<sup>40</sup> Petition at 17, 23-24. Among the other issues listed are encoding, privacy, and accessibility.

<sup>41</sup> See Public-Private Partnership to Ensure Smooth Transition to ATSC 3.0, NAB Press Release, <https://www.nab.org/documents/newsroom/pressrelease.asp?id=6732> (Apr. 17, 2023). FCC staff participated in the Working Groups but did not contribute to the preparation of the FOTVI Report.

<sup>42</sup> *Id.* at 1; NAB Letter at 1.

<sup>43</sup> See FOTVI Report at 1-2. More specifically, each working group addressed the following issues: Working Group 1—solutions to address backwards compatibility (e.g., tuner availability, converter devices) and the challenges to these solutions; methods to ensure widespread access to backwards compatibility solutions while protecting consumers; minimizing negative consumer impact: loss of traditional television service, inconvenience, costs; availability and pricing of consumer equipment (televisions, handsets, etc.); and consumer education responsibilities and plans. *Id.* at 3. Working Group 2—minimizing negative consumer impact; availability and pricing of consumer equipment; consumer education responsibilities and plans; simulcasting (under what conditions it may end and whether it would continue to be permissible); managing ATSC 1.0 and ATSC 3.0 capacity as more stations transition; and tuner and labeling standards. *Id.* at 13. Working Group 3—MVPD carriage of 3.0 signals;

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states that it intends the FOTVI Report “will provide the Commission with a better understanding of the remaining issues and concerns of stakeholders and put the Commission in a better position to continue with the rulemaking proceedings necessary to complete a successful transition to ATSC 3.0.”<sup>44</sup>

### C. Current 3.0 Deployment Status

12. The Commission has been monitoring the pace of the deployment of ATSC 3.0 both nationally and market-by-market, including the rollout of 3.0 service by television broadcasters, the penetration of ATSC 3.0-ready TV sets and other converter equipment, and the extent to which MVPDs have deployed 3.0 equipment. Broadcasters have launched full-power Next Gen TV service in more than 80 markets that contain more than 70 percent of the population.<sup>45</sup> In addition, the FOTVI Report states that more than 14 million ATSC 3.0-capable sets and 300,000 external 3.0 converters were sold through 2024.<sup>46</sup> Further, CTA estimates that by 2028 more than half of TV sets sold each year will have 3.0 tuners even absent Commission action.<sup>47</sup> We are not aware of any MVPDs that are carrying 3.0 signals.<sup>48</sup>

## III. DISCUSSION

13. With this *Fifth Further Notice of Proposed Rulemaking (FNPRM)*, we seek to eliminate unnecessary regulatory barriers that hinder continued progress toward a transition to ATSC 3.0, as well as to facilitate the expansion of Next Gen TV service by giving more flexibility to broadcasters and so that viewers can reap the full benefits of this service. First, we make specific proposals and tentative conclusions to further this goal. Second, we seek comment on certain, closely related issues, including an ATSC 3.0 tuner requirement, encryption of broadcast signals, and MVPD carriage of 3.0 signals, in light of our proposals and tentative conclusions, as well as on other outstanding ATSC 3.0 issues.

### A. Accelerating the ATSC 3.0 Transition and Promoting Broadcaster Flexibility

14. We propose to permit stations to continue to voluntarily transition from a 1.0 signal to a 3.0 signal (or continue to operate in 3.0) while giving them greater freedom to serve the specific needs of their local markets and expeditiously provide next generation television services to viewers. First, we tentatively conclude that we should eliminate the 1.0 simulcasting requirement for stations that transition to 3.0. Second, we tentatively conclude that for stations that wish to continue simulcasting in 1.0 we will continue to permit such operations on a voluntary, simplified basis, by eliminating the “substantially similar” rule and the 95 percent coverage threshold for expedited processing. Third, we propose to permit the use of MPEG-4 on 1.0 streams in certain situations to help enhance broadcasters spectral capacity and thereby facilitate simulcasting until broadcasters and their viewers are ready for a full transition to 3.0. We seek comment on these tentative conclusions and proposals.

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existing public interest obligations of broadcasters and potential regulatory changes to reflect ATSC 3.0 transmission; privacy and security for viewers and viewing information; accessibility of ATSC 3.0 programming; and whether all ATSC 1.0 transmission must eventually end. *Id.* at 20.

<sup>44</sup> *Id.* at 2.

<sup>45</sup> *Id.* at 1. Based on a review of internal Commission data there are more than 90 markets where ATSC 3.0 has been authorized when considering all classes of TV stations (i.e., full power, Class A, and LPTV). *See supra* note 2.

<sup>46</sup> FOTVI Report at 6.

<sup>47</sup> CTA Comments at 9.

<sup>48</sup> NCTA notes that ATSC has yet to complete its work on recommended practices for redistribution of ATSC 3.0 signals. NCTA Comments at 10. Additionally, NCTA states that “none of [its] cable operator members will be able to carry 3.0 signals without first making costly changes to their networks.” NCTA Comments at 5.



## 1. Transitioning to ATSC 3.0 and Simulcast Termination

15. We tentatively conclude that we should eliminate the 1.0 simulcasting requirement for stations that wish to transition or have transitioned their facilities to 3.0 service.<sup>49</sup> As the Commission made clear at the outset of the 3.0 transition, this requirement was always intended to be temporary, and we believe the time has come for it to be eliminated.<sup>50</sup> Based on the Commission's observation of the market since 2017,<sup>51</sup> we have come to believe that while simulcasting remains important for protecting viewers during the transition period, at this stage broadcasters have strong market incentives to continue to effectively serve their viewers.<sup>52</sup> We believe we can and should rely on these incentives and allow stations themselves to decide how and when to move forward with full 3.0 service. We also tentatively conclude that under our proposed rules, stations would continue to be free to switch between 1.0 and 3.0 as market conditions dictate, subject to our application and viewer/MVPD notification processes.<sup>53</sup> We seek comment on this conclusion. Some commenters, such as ATVA, express concern that revenue derived from new Broadcast Internet services may skew broadcasters' market incentives.<sup>54</sup> However, we tentatively agree with broadcasters, such as Gray, who explain that "datacasting will supplement and support video broadcasting" and "not replace it."<sup>55</sup> Broadcasters also remain required to provide a minimum level of broadcast service under our rules.<sup>56</sup>

16. Broadcasters have explained that transmitting in both 3.0 and 1.0 "takes enormous capacity and creates significant constraints on what services all participating broadcasters can offer."<sup>57</sup>

<sup>49</sup> 47 CFR §§ 73.3801(b), 73.6029(b), 74.782(b). See *supra* para. 3.

<sup>50</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 9938, para. 14.

<sup>51</sup> See *supra* para. 12.

<sup>52</sup> See, e.g., *First Next Gen TV Report and Order*, 32 FCC Rcd at 9938, para. 13, n.44 (citing to comments explaining that "[s]tations that do not preserve service coverage or quality will suffer financially due to lost viewership and thus advertising revenue"); *2024 Communications Marketplace Report*, GN Docket No. 24-119, 39 FCC Rcd 14116, 14284, Fig. II.E.15 (2024) (noting that advertising accounts for 53% of broadcast TV station revenues). We also note that Next Gen TV broadcasters have sought to preserve their 1.0 multicast streams, even though they are not required to do so. *Third Report and Order and Fourth FNPRM*, 38 FCC Rcd at 6417, para. 13 (establishing a voluntary licensing regime for multicast streams at the request of broadcasters); *First Next Gen TV Report and Order*, 32 FCC Rcd at 9937-38, para. 13 & n.40.

<sup>53</sup> See, e.g., 47 CFR §§ 73.3801(g), 73.6029(g), 74.782(h) (Viewer notice requirements); 47 CFR §§ 73.3801(h), 73.6029(h), 74.782(i) (MVPD notice requirements).

<sup>54</sup> See *supra* note 3 (defining Broadcast Internet services). Letter from Michael Nilsson, Counsel to the American Television Alliance, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 16-142, at 3, n.7 (filed Aug. 4, 2025) (ATVA Aug. 4 *Ex Parte* Letter) ("To the extent broadcasters believe that non-broadcast services are more profitable than their existing broadcasting services, individual broadcasters might choose to 'flash cut' to ATSC 3.0 even if there is little market for ATSC 3.0 broadcasting. Overall profit maximization, in other words, might require degradation of broadcasting.").

<sup>55</sup> Letter from Ari Meltzer, Counsel to Gray Media, Inc., to Marlene H. Dortch, Secretary, FCC, MB Docket No. 16-142, at 1-2 (filed Aug. 5, 2025) (Gray Aug. 5 *Ex Parte* Letter) (adding that "Gray believes that datacasting revenue can help underwrite the expensive costs of producing high quality local journalism and help Gray fulfill its public interest obligations"). Gray cites a BIA Kelsey estimate predicting that datacasting may generate \$8.7 billion annually. This figure taken together with projections of advertising and retransmission consent revenue suggests that datacasting could make up roughly 20% of broadcast station revenue by 2029. Gray Aug. 5 *Ex Parte* Letter at 9.

<sup>56</sup> 47 CFR §§ 73.624(b) and (c); 74.790(g) and (i). See *Broadcast Internet Order*, 35 FCC Rcd at 14508-10, paras. 32-35 (discussing what constitutes derogation of TV service and meeting minimum service requirements); 47 U.S.C. § 336 (Broadcast spectrum flexibility). See also *infra* para. 66 (seeking comment on the minimum level of broadcast service after a station transitions to 3.0).

<sup>57</sup> FOTVI Report at 17.

Specifically, transitioning broadcasters are generally relying on one or two ATSC 3.0 “lighthouses”<sup>58</sup> in each market, limiting each participant to “only a small fraction of the features” that would be possible if they could devote their entire channel capacity to 3.0.<sup>59</sup> As a result, they have struggled to demonstrate the full array of improvements made possible by this new innovative technology.<sup>60</sup>

17. We seek comment on whether to make these new rules effective 30 days after Federal Register publication of an Order adopting this proposal, or on a specific date. If on a specific date, we seek comment on why the proposed date is appropriate. We tentatively conclude that stations seeking to transition without a simulcast host (i.e. “flash-cut” from 1.0 to 3.0 service), or Next Gen stations that wish to end an existing 1.0 simulcast, must file a Next Gen license application. In light of these proposals, we also propose to state explicitly in our rules that the existing viewer and MVPD notice requirements for stations also apply to a station that chooses to operate in 3.0 without a simulcast host partner.<sup>61</sup> Although our rules already do not require LPTV and TV translator stations to simulcast, we propose to clarify our part 74 rules to make clear a station’s viewer and MVPD notice requirements when it has chosen to simulcast and subsequently decides to terminate 1.0 service.<sup>62</sup> We seek comment on our tentative conclusions and proposals.<sup>63</sup>

## 2. Voluntary Simulcasting

18. While we tentatively conclude that we will end the requirement for simulcasting by Next Gen TV broadcasters, we also tentatively conclude that we will continue to permit simulcasting on a voluntary basis.<sup>64</sup> Local simulcasting remains an important tool for broadcasters during the transition to reach broadcast viewers within their communities that do not yet have 3.0 capable receivers, and we

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<sup>58</sup> A 3.0 “lighthouse” refers to a single host station in a market that operates in 3.0 and hosts the signals of several other 3.0 (guest) stations in the market.

<sup>59</sup> FOTVI Report at 18. *See also, e.g.*, ATSC Comments at 2; ATSC White Paper, “Realizing the Full Benefits of ATSC 3.0 Broadcasts in the U.S.,” (Feb. 2025) available at <https://www.atsc.org/nextgen-tv/resources/> (stating “the benefits of ATSC 3.0 in the United States are constrained, due to the FCC-mandated simulcast of ATSC 1.0 and severely limited broadcast RF spectrum.”).

<sup>60</sup> *See* NAB Petition at 12 (stating “broadcasters are forced to split their finite spectrum between the two standards, limiting the bandwidth available for ATSC 3.0’s most advanced capabilities and harming consumers in the process.... This dual-system approach not only strains resources but also stifles innovation and slows the widespread adoption of ATSC 3.0.”); ATSC Comments at 2, ATSC White Paper (stating that “phasing out ATSC 1.0 broadcasts is necessary to reap the full benefits of the next generation of broadcasting.”).

<sup>61</sup> *See infra* Appx. A, Proposed Rules (proposing to revise 47 CFR §§ 73.3801(g), 73.6029(g) (Viewer notice requirements); 47 CFR §§ 73.3801(h), 73.6029(h) (MVPD notice requirements)).

<sup>62</sup> *See infra* Appx. A, Proposed Rules (proposing to revise 47 CFR § 74.782(h) (Viewer notice requirements); 47 CFR § 74.782(i) (MVPD notice requirements)). We are also proposing to revise 47 CFR § 74.795(b)(1) to confirm LPTV and TV translator stations’ existing authority to broadcast in ATSC 3.0. *See infra* Appx. A, Proposed Rules (proposing to revise 47 CFR § 74.795(b)(1)).

<sup>63</sup> We remind stations that when a station flash-cuts to ATSC 3.0 or terminates its 1.0 simulcast, it is required to comply with all applicable part 73 and 74 rules that would otherwise be applicable to the station if it were operating in 1.0. *See First Next Gen TV Report and Order*, 32 FCC Rcd at 9971, para. 80. Our proposals are not intended to impact a broadcaster’s ability to operate as a 3.0 guest. ATSC 3.0 guest stations will continue to be required to be located in the same DMA as their host station and enter into a “simulcasting agreement.” *See, e.g.*, 47 CFR §§ 73.3801(d), (e). Commonly-owned stations do not have to enter into a written simulcasting agreement. *See Media Bureau Announces that It Will begin Accepting Next Generation Television (ATSC 3.0) License Applications In the Commission’s Licensing and Management System on May 28, 2019*, Public Notice, 34 FCC Rcd 3684, 3685, n.5 (MB 2019).

<sup>64</sup> *See infra* Appx. A, Proposed Rules (proposing to amend 47 CFR §§ 73.3801(b), 73.6029(b), 74.782(b)).

expect some broadcasters will want to continue to voluntarily simulcast for some time.<sup>65</sup> We tentatively conclude, however, that we should also make certain changes to our local simulcasting rules to ensure broadcasters have flexibility to transition to 3.0 while also being able to serve their 1.0 viewers to the greatest extent possible. First, we propose to immediately eliminate the “substantially similar” rule, allowing broadcasters to choose how to divide their programming between 1.0 and 3.0 signals. Second, we propose to eliminate the coverage threshold for expedited processing, affording expedited processing to all applicants satisfying the DMA and community of license (COL) coverage requirements.<sup>66</sup> Finally, we propose to permit a simulcasting station to encode at least a portion of its 1.0 signal using MPEG-4, allowing more efficient use of what we anticipate will be increasingly limited 1.0 capacity. We discuss these proposals in turn below.

19. *Substantially Similar Rule.* We propose to eliminate the “substantially similar” requirement immediately upon Federal Register publication of an Order adopting this proposal.<sup>67</sup> In 2023, the FCC scheduled this requirement to sunset in July of 2027.<sup>68</sup> We now believe that the persistence of the rule beyond the end of simulcasting requirement could discourage broadcasters from choosing to simulcast in 1.0 on a voluntary basis. However, even in the event that we do not adopt our proposal to eliminate the simulcasting requirement, we still tentatively conclude that we should eliminate the substantially similar rule as proposed. While the existing rule aims to provide flexibility to innovate,<sup>69</sup> some broadcasters have reported that the substantially similar requirement is preventing plans to develop innovative programming.<sup>70</sup> We tentatively find such arguments are compelling, including NAB’s

<sup>65</sup> We note that broadcasters have indicated that they were “unlikely” to stop 1.0 simulcasting “until most consumers can receive ATSC 3.0 signals.” FOTVI Report at 17.

<sup>66</sup> See *infra* note 75.

<sup>67</sup> See *infra* Appx. A, Proposed Rules (proposing to eliminate 47 CFR §§ 73.3801(b)(1), 73.6029(b)(1), and 74.782(b)(1), relieving the restriction on 1.0 simulcast streams); see 5 U.S.C. § 553(d)(1) (explaining that rule changes may go into effect fewer than 30 days after publication if they relieve a restriction)).

<sup>68</sup> 47 CFR §§ 73.3801(b)(1), 73.6029(b)(1), 74.782(b)(1). See *supra* para. 5. See also *Third Report and Order and Fourth FNPRM*, 38 FCC Rcd at 6434-35 paras. 39 (finding that the simulcast rule continues to be necessary at this time for the same reasons it was adopted, based on the current record showing “that there has not yet been a sufficient shift in the marketplace that would justify elimination or modification of the substantially similar rule” and “no evidence on the record that the substantially similar rule is currently impeding, or is likely in the near future to impede, the provision of innovative 3.0 features and content”).

<sup>69</sup> 47 CFR §§ 73.3801(b)(1), 73.6029(b)(1); 74.782(b)(1); *First Next Gen TV Report and Order*, 32 FCC Rcd at 9943-44, para. 23 (explaining that the “substantially similar” requirement “does not apply ‘to certain enhanced capabilities that cannot reasonably be provided in ATSC 1.0 format,’ including ‘hyper-localized’ content, programming features or improvements created for the 3.0 service, enhanced formats made possible by 3.0 technology (e.g., 4K or HDR), and any personalization of programming performed by the viewer and at the viewer’s discretion); see *Third Report and Order and Fourth FNPRM*, 38 FCC Rcd at 6438-39, para. 44, n.193 (indicating that “demo” programming aired would likely be covered by the exceptions to the “substantially similar” requirement).

<sup>70</sup> See, e.g., Graham Reply to *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, GN Docket No. 16-142, Third Further Notice of Proposed Rulemaking, 37 FCC Rcd 7978 (2022) (*Third FNPRM*) at 4 (rec. Sept. 6, 2022) (“With the requirement lifted, broadcasters can do the sort of experimenting and innovating with unique NextGen TV content and features that will ultimately drive adoption of ATSC 3.0 technologies and NextGen TV programming.”); NAB Comments to *Third FNPRM* at 14 (rec. Aug. 8, 2022) (stating that broadcasters seek “the opportunity to try different programming or features on their ATSC 3.0 signals to entice viewers to voluntarily upgrade their equipment”); BitPath Comments to *Third FNPRM* at 16 (rec. Aug. 8, 2022) (“[A] government rule that inhibits broadcasters from introducing, at appropriate times, new or dissimilar programming to take advantage of the full capabilities of new technology actually dampens the pro-consumer benefits of ATSC 3.0.”); Scripps Reply to *Third FNPRM* at 6 (rec. Sept. 6, 2022) (“[R]emoval of the substantially similar rule would allow broadcasters to expand offerings that make full use of the enhanced capabilities of ATSC 3.0.”). See also, e.g., Scripps Comments at 7 (stating the rule “is preventing broadcasters from offering experimental programming

(continued....)

argument that the rule may undermine the transition it purportedly supports if it discourages broadcasters “from using ATSC 3.0’s capabilities to offer differentiated programming that could drive Next Gen TV consumer interest and adoption.”<sup>71</sup> We recognize that the Commission has previously expressed concern about whether market incentives alone would protect viewers who rely on 1.0 service,<sup>72</sup> but upon further consideration we tentatively agree with NAB that “market dynamics are likely to ensure that popular programming remains widely accessible” and that “[b]roadcasters have no financial incentive to restrict their highest-value content to the still-limited ATSC 3.0 audience.”<sup>73</sup> We seek comment on these proposals and tentative conclusions.

20. *Expedited Processing.* We propose to eliminate the 95 percent coverage threshold for expedited processing,<sup>74</sup> affording such processing to all applicants satisfying the DMA and COL coverage requirement (i.e., serving their entire COL).<sup>75</sup> We tentatively agree with NAB that a rigid coverage threshold for expedited processing “creat[es] unnecessary roadblocks for broadcasters seeking to bring ATSC 3.0 services to their communities,”<sup>76</sup> and that the persistence of such a coverage requirement for expedited processing after the end of the simulcasting requirement would only discourage broadcasters from choosing to simulcast in 1.0 on a voluntary basis. However, even in the event that we do not adopt our proposal to eliminate the simulcasting requirement, we still tentatively conclude that we should eliminate the coverage threshold for expedited processing and afford such processing to all applicants

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that may find and develop ATSC 3.0 audiences” and “operates to restrict broadcaster and market-based programming decisions.”).

<sup>71</sup> NAB Petition at 28 (adding that the rule “discourages investment in new content and services that could make ATSC 3.0 a more attractive and competitive platform.”).

<sup>72</sup> *Third Report and Order and Fourth FNPRM*, 38 FCC Rcd at 6436-38 paras. 42-43.

<sup>73</sup> NAB Petition at 27 (stating broadcasters’ “business models rely on maximizing viewership and advertising revenue, which means they will continue to make their most-watched programming available to the largest possible audience – including those who have not yet transitioned to ATSC 3.0.”).

<sup>74</sup> See *supra* para. 4. See also 47 CFR §§ 73.3801(f)(5), 73.6029(f)(5), 74.782(g)(5) (stating that a Next Gen TV license application “will receive expedited processing provided, for stations requesting to air an ATSC 1.0 primary signal on the facilities of a host station, that station will provide ATSC 1.0 service to at least 95 percent of the predicted population within the noise limited service contour of its original ATSC 1.0 facility”). The Commission stated that it expected the Media Bureau “generally will be able to process applications qualifying for expedited processing within 15 business days after public notice of the filing of such applications.” *Next Gen TV First Report and Order*, 32 FCC Rcd at 9947-8, para. 34. Stations that do not qualify for expedited processing will continue to be considered on a case-by-case basis, generally within 60 business days after public notice of the filing of such applications. See *id.*

<sup>75</sup> All full power Next Gen TV license applicants “must continue to cover the station’s entire community of license (i.e., the station must choose a host from whose transmitter site the Next Gen TV station will continue to meet the community of license signal requirement over its current community of license, as required by § 73.625) and the host station must be assigned to the same Designated Market Area (DMA) as the originating station....”). 47 CFR § 73.3801(c). For purposes of Class A, LPTV and TV translator stations when the term “COL” is used we mean the coverage requirements for those classes of stations set forth in our 3.0 rules. See 47 CFR §§ 73.6029(c), 74.782(d) (applying the existing 30-mile and contour overlap restrictions that apply to low power because Class A, LPTV, and TV translator stations do not have a COL signal requirement). See *infra* Appx. A, Proposed Rules (proposing revisions to 47 CFR §§ 73.3801(f)(5) & (f)(6)(ii)-(iii), 73.6029(f)(5) & (f)(6)(ii)-(iii), 74.782(g)(5) & (g)(6)(ii)-(iii)). We also propose to modify section 73.3801(c) to update the reference to the community of license rule, which was moved from former section 73.625(a) to 47 CFR § 73.618. *Amendment of Part 73 of the Commission’s Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations*, MB Docket No. 22-227, Report and Order, 38 FCC Rcd 8706, 8725-26, para. 37 (2023). We seek comment on this proposal.

<sup>76</sup> NAB Petition at 26. See also Scripps Comments at 8; Sinclair Comments at 11.

satisfying the DMA and COL coverage requirement. We seek to provide broadcasters with flexibility to deploy and/or expand 3.0 service. As discussed above, we tentatively conclude that broadcasters have strong market incentives to preserve viewership during the transition, and they are best positioned to determine how to most effectively serve their viewers.

21. Consistent with this proposal, we propose to revise our children's television multicast coverage rule to require only COL coverage for full power stations, rather than 95 percent population coverage.<sup>77</sup> We also propose to allow Class A stations to air children's programming on a multicast stream so long as its multicast stream host complies with the coverage requirements of section 73.6029(c).<sup>78</sup> In addition, we propose to modify sections 73.3801(i), 73.6029(i), and 74.782(j) to eliminate from our 3.0 multicast licensing rules the expedited processing exception related to multicast streams.<sup>79</sup> In the *Third Report and Order* the Commission excluded multicast stream coverage from consideration under expedited processing.<sup>80</sup> By eliminating the 95% threshold for expedited processing, both multicast and primary streams will have the same simulcast coverage requirements and the exception in the 3.0 multicast rules is no longer necessary. Under this proposal *all* simulcast applications (primary streams and multicast streams) will be eligible for expedited processing so long as a station's 1.0 host is located in the same DMA and covers its COL.<sup>81</sup> We seek comment on these proposals and tentative conclusions.

22. *MPEG-4*. We propose to permit simulcasting stations, upon notice to the Commission, to encode multicast 1.0 streams using MPEG-4, and we seek comment on this proposal. We therefore also propose to incorporate by reference into the rules ATSC Standard A/72, Part 1:2023-04.<sup>82</sup> MPEG-4 is a more efficient compression method than that contained in our rules, allowing a larger number of streams

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<sup>77</sup> See *infra* Appx. A, Proposed Rules (proposing revisions to 47 CFR § 73.3801(i)(3)). Under our 3.0 multicast rules, a station that covers less than 95% of its 1.0 coverage area is not permitted to use any programming aired on its simulcast multicast stream for purposes of compliance with 47 CFR § 73.671. See *Third Report and Order and Fourth FNPRM*, 38 FCC Rcd at 6431-32, para. 34. We propose to adopt this rule change independent of whether we eliminate the simulcasting or substantially similar requirement.

<sup>78</sup> 47 CFR § 73.6029(c) (requiring a Next Gen station to maintain overlap between the protected contour (§ 73.6010(c)) of its existing signal and its ATSC 1.0 simulcast signal, and stating that its 1.0 simulcast signal may not be relocated more than 30 miles from the reference coordinates of the Next Gen station's existing antenna location). See *infra* Appx. A, Proposed Rules (proposing revisions to 47 CFR § 73.6029(c)). In a separate proceeding the Commission has proposed to modify the so-called "30 mile rule," which limits Class A and LPTV station facility relocations to 30-miles from the station's antenna reference coordinates. See *In the Matter of Political Programming and Online Public File Requirements for Low Power Television Stations Amendment of the Commission's Rules to Advance the Low Power Television, TV Translator and Class A Television Service*, MB Docket Nos. 24-147 and 24-148, Notice of Proposed Rulemaking, 39 FCC Rcd 6318, 6341-42, para. 40 (2024); 47 CFR § 74.787(b). In order to ensure consistency with whatever rule is adopted, we propose to amend 47 CFR §§ 73.6029(c) and 74.782(d) to align with the distance requirement of 47 CFR § 74.787(b). We also propose to delete 47 CFR § 74.782(j)(3) because LPTV stations are not required to comply with the Commission's children's television programming requirement in 47 CFR § 73.671. We seek comment on these proposals.

<sup>79</sup> See 47 CFR §§ 73.3801(i), 73.6029(i), 74.782(j); *infra* Appx. A, Proposed Rules (proposing revisions to 47 CFR § 73.3801(i), 73.6029(i), and 74.782(g)).

<sup>80</sup> *ATSC 3.0 Third Report and Order and Fourth FNPRM*, 32 FCC Rcd at 6431, para. 32 ("When determining whether a station seeking to transition is eligible for expedited processing...we will continue to ask only whether the primary stream will remain available in 1.0 to at least 95% of a station's current OTA audience.").

<sup>81</sup> See 47 CFR §§ 73.3801(c), 73.6029(c), 74.782(d) (coverage requirements). In furtherance of this proposal we also propose to eliminate the word "primary" from the expedited processing rule to make it applicable to all streams. See *infra* Appx. A, Proposed Rules (proposing revisions to 47 CFR §§ 73.3801(f)(5), 73.6029(f)(5), 74.782(g)(5)).

<sup>82</sup> See *infra* Appx. A, Proposed Rules (proposing revisions to 47 CFR §§ 73.682(d)(1)(iv), 73.8000(a)(2)(vii)).

using the same capacity.<sup>83</sup> Under our current rules, broadcasters transmitting in 1.0 must comply with the ATSC A/53 standard (which includes only MPEG-2),<sup>84</sup> and there is evidence that some older digital televisions cannot display programming encoded using MPEG-4.<sup>85</sup> Commenters have argued in the record that the “great majority of televisions in American households today can decode MPEG[-]4 transmissions.”<sup>86</sup> The Media Bureau has also permitted simulcasting stations to use MPEG-4 for multicast streams to increase the preservation of 1.0 service.<sup>87</sup> As Sinclair explains, “by allowing broadcasters to compress more content into less spectral capacity, MPEG[-]4 may allow broadcasters in many markets to deploy an additional ATSC 3.0 facility, beyond the single stick typically operating in most markets.”<sup>88</sup> Further, according to Sinclair, “the use of MPEG[-]4 may allow broadcasters to preserve all current content during the transition, rather than forcing broadcasters to drop channels or lower resolution.”<sup>89</sup>

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<sup>83</sup> MPEG-4 not only permits a larger number of streams, but also enables stations to potentially provide more higher quality streams. See ATSC Standard A/72, Part 1:2023-04, “Video System Characteristics of AVC in the ATSC Digital Television System,” (2023), <https://www.atsc.org/wp-content/uploads/2023/04/A72-Part-1-2023-04.pdf>. MPEG-4, AVC, and H.264 refer to generally the same thing. See, e.g., ISO News, “Revolutionary video standard — H.264 | MPEG-4 AVC — recognized by US TV Academy,” (Aug. 25, 2008) (“H.264 | MPEG-4 AVC is a highly efficient video compression method that substantially reduces the bandwidth needed to deliver high quality video and the space required to store it.”), <https://www.iso.org/news/2008/08/Ref1153.html>. See also, e.g., LPTVBA Comments at 2 (“With MPEG-4 compression being used in sub-channels, LPTV Stations are delivering as many as 17 sub-channels with clear reception.”).

<sup>84</sup> 47 CFR §§ 73.682(d)(1)(ii), 73.8000(a)(2)(iv) (generally requiring compliance with A/53, Part 4:2007, “MPEG-2 Video System Characteristics” (January 3, 2007)).

<sup>85</sup> See, e.g., FOTVI Report at 18-19 (stating “any consumer that is still using a sixteen-year old DTV converter device or similarly aged early DTV television set would not be able to receive AVC-encoded video without upgrading.”); Doug Lung, tvtech, “Revisiting MPEG-4 for ATSC 1.0 Lighthouse Stations,” (Sept. 4, 2024) (“Using MPEG-4 (AVC) for ATSC 1.0 has been tried but created problems for viewers with older TV sets or old ‘coupon’ converter boxes.”), <https://www.tvtechnology.com/opinion/revisiting-mpeg-4-for-atsc-1-0-lighthouse-stations>.

<sup>86</sup> Sinclair Comments at 10. Our understanding is that, generally, a TV set with streaming functionality (or “smart” TV) will support MPEG-4 video. See also FOTVI Report at 18. We seek comment on this assumption.

<sup>87</sup> See, e.g., Application of CBS Broadcasting Inc. (WBBM-TV) for Modification of a License (Next Gen TV), LMS File No. 0000234857 (granted Jan. 26, 2024). While we do not disturb the applications granted by the Bureau, we note that free, OTA broadcast streams transmitted to viewers may not be considered ancillary and supplementary. See 47 CFR § 73.624(c); *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, Fifth Report and Order, 12 FCC Rcd 12809, 12821, para. 30 (1997) (stating that “ancillary and supplementary services are ‘any service provided on the digital channel *other than* free, over-the-air services’”) (*emphasis added*). Our proposal is also consistent with the Bureau’s current practice. See *Media Bureau Takes Action to Facilitate ATSC 3.0 Transition by Clarifying Procedures*, Public Notice, DA 25-789 (MB Sept. 2, 2025) (stating “[s]tations may also voluntarily use MPEG-4 compression when airing a multicast stream over an ATSC 1.0 host in order to more efficiently utilize capacity.”). We are also aware of stations not engaged in simulcasting that have adopted the use of MPEG-4 on multicast streams. See <https://www.rabbitears.info/oddsandends.php?request=mpeg4> (last visited Sept. 15, 2025); LPTVBA Comments at 2.

<sup>88</sup> Sinclair Comments at 10 (observing also that “[d]oubling or tripling 3.0 capacity in these markets opens up the possibility for broadcasters to offer noticeable service enhancements that will stimulate consumer demand for NextGen equipment, which will ease the transition, as well as the opportunity for broadcasters to begin providing additional services.”).

<sup>89</sup> *Id.* But see Richelle Brittain Comments at 8 (“Updating ATSC 1.0 codecs will only marginally reduce [a station’s] spectrum needs, will not implement the ‘single stream’ feature of ATSC 3.0 that enables the higher degree of compression without quality loss it promises, and will effectively ‘brick’ those ATSC 1.0 tuners that do not support these codecs, most likely without the ‘\$40 tuner’ being promised to help devices with those tuners transition to ATSC 3.0.”).

23. We tentatively conclude that while some viewers with older TV equipment could lose access to 1.0 service if broadcasters choose to use MPEG-4, we expect broadcasters that are simulcasting multicast streams will weigh this potential loss of 1.0 service against the benefits of expanded 3.0 service. While our understanding is that virtually all 1.0 TV sets and equipment manufactured today include decoding capability for MPEG-4, we seek comment on this. What is the current penetration level and market availability of MPEG-4-capable receivers? Is MPEG-4 appropriate in some situations to provide broadcasters with flexibility as they begin to expand 3.0 services? We seek comment. We also seek comment on whether we should permit the use of MPEG-4 on the primary streams of simulcasting stations in the process of transitioning to 3.0, and if so in what circumstances.<sup>90</sup> We separately seek comment on whether MPEG-4 use should also be permitted for 1.0 multicast streams on 1.0-only stations, regardless of whether they are part of a 3.0 arrangement.

24. We recognize that adding MPEG-4 to the digital transmission standard in section 73.682(d) would require all new TV receivers to include decoding capability for MPEG-4 pursuant to section 15.117(b).<sup>91</sup> Given our understanding that virtually all 1.0 TV sets and equipment manufactured today include decoding capability for MPEG-4, we believe equipment manufacturers would be able to comply with such a requirement, but seek comment on this issue. Specifically, if MPEG-4 is permitted for any broadcasters, we seek comment on our proposal to incorporate by reference ATSC Standard A/72, Part 1:2023-04 to section 73.3800(a) and to the broadcasting standard in section 73.682(d) of our rules (thus requiring manufacturer compliance).<sup>92</sup> Alternatively, we seek comment on whether we should provide an exception in section 15.117(b) in the same manner as the 3.0 standard in section 73.682(f) of our rules (which did not impose a requirement on manufacturers).<sup>93</sup> Should such an exception be limited to smaller manufacturers<sup>94</sup> or include a labeling requirement (i.e., identifying equipment that lacks decoding capability for MPEG-4)? What if any impediments exist that could restrict the implementation of MPEG-4 for manufacturers if it were required by our rules? If use of MPEG-4 is permitted more broadly (rather than limited to simulcast stations), would an exception in section 15.117(b) still appropriate? Why or why not? We also seek comment on whether any approach adopted requires corresponding changes elsewhere in our rules; for example, if MPEG-4 is permitted but limited to 3.0 multicast streams, should there also be changes to sections 73.3801(i), 73.6029(i), and 74.782(j) to reflect this flexibility?

25. *Other Changes.* Should we make any other changes to the voluntary simulcasting rule or our licensing processes in order to facilitate and promote continued simulcasting during the remainder of the transition?<sup>95</sup> For example, should we eliminate or provide for streamlined waivers of the DMA and/or

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<sup>90</sup> Potentially limited to specific situations such as a 1.0 “nightlight,” when one or a few stations in a market remain in 1.0 to simulcast their own and other stations’ primary streams during the final phase of a market’s transition. See Scripps Comments at note 14.

<sup>91</sup> See 47 CFR § 73.682(d); 47 CFR § 15.117(b).

<sup>92</sup> 47 CFR § 73.8000(a), 73.682(d). See *supra* para. 22 and note 82.

<sup>93</sup> See 47 CFR § 15.117(b) (“TV broadcast receivers...need not be capable of receiving analog signals or signals using the Next Gen TV transmission standard”).

<sup>94</sup> See *infra* at para. 30.

<sup>95</sup> Among other things, the simulcasting rule requires broadcasters to (1) maintain a written copy of any simulcasting agreement and provide it to the Commission upon request, 47 CFR §§ 73.3801(e), 73.6029(e), 74.782(f) (simulcast agreements); (2) use a host in the same DMA and provide coverage to the entire community of license (COL), 47 CFR §§ 73.3801(d), 73.6029(d), 74.782(e) (1.0 coverage requirements); (3) provide on-air notices to viewers via daily Public Service Announcements (PSAs) or crawls every day for 30 days prior to the date that the station will terminate ATSC 1.0 operations (e.g., moving to a host station's facility, subsequently moving to a different host, or returning to its original facility), 47 CFR §§ 73.3801(g), 73.6029(g), 74.782(h) (Viewer notice requirements); and (4) provide notices to MVPDs at least 90 days in advance of relocating ATSC 1.0 streams, 47 CFR §§ 73.3801(h), 73.6029(h), 74.782(i) (MVPD notice requirements). In addition, under current 3.0 application procedures, a station

(continued....)



COL coverage requirements for simulcasting stations during the final phase of a market's transition?<sup>96</sup> Should we streamline the information required to be submitted in support of license applications?<sup>97</sup> We seek comment on these and any other potential changes.

## **B. Issues Related to Next Gen TV**

26. In this section, we seek comment on a variety of issues related to the ATSC 3.0 transition. We have previously received comments on many of these issues in the context of NAB's proposal for a mandatory transition. Here, we consider these issues in light of our proposal to eliminate the simulcasting requirement and our goal to eliminate regulatory barriers that are hindering adoption of ATSC 3.0 technology. Specifically, we seek comment on an ATSC 3.0 tuner requirement, encryption of broadcast signals, and MVPD carriage of 3.0 signals.

### **1. Next Gen TV Tuner Mandate**

27. We seek comment on whether we should require at some point in time that all new TV broadcast receivers be capable of adequately receiving and displaying ATSC 3.0 signals.<sup>98</sup> Although the record reflects that the number of ATSC 3.0-capable devices sold continues to grow each year, the vast majority of sets in use continue to be limited to ATSC 1.0 signals.<sup>99</sup> The Communications Act of 1934, as amended (the "Communications Act" or the "Act"), provides that the Commission "from time to time, as public convenience, interest, or necessity requires, shall" have the "authority to require that apparatus designed to receive television pictures broadcast simultaneously with sound be capable of adequately receiving all frequencies allocated by the Commission to television broadcasting...."<sup>100</sup> Pursuant to this authority, the Commission requires that TV broadcast receivers<sup>101</sup> be capable of adequately receiving digital television (DTV or ATSC 1.0) signals.<sup>102</sup> In the *First Next Gen TV Report and Order*, however, the Commission found that the statute leaves it to the Commission's discretion when to require that television receivers must be capable of receiving all television broadcast frequencies and opted against

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that is newly constructed and that has never operated before, but wishes to commence its operations in 3.0, must first file an application for license to cover and then file a license modification application. Further program test authority, 47 CFR § 73.1620, does not apply to 3.0 license applications as they require Commission approval prior to a station providing 3.0 service. See 47 CFR §§ 73.3801(f)(2), 73.6029(f)(2), 74.782(g)(2).

<sup>96</sup> See, e.g., *supra* note 90.

<sup>97</sup> See 47 CFR §§ 73.3801(f)(6), 73.6029(f)(6), 74.782(g)(6).

<sup>98</sup> See *infra* para. 38 (discussing consumers' ability to view encrypted signals).

<sup>99</sup> See *supra* para. 12 (approximately 14 million ATSC 3.0 receivers have been sold to date). See also Nielsen, "Beyond big data: The audience watching over the air" (Jan. 2024) ("According to Nielsen's TV universe estimates for 2023-24, the U.S. has 125 million TV households.").

<sup>100</sup> 47 U.S.C. § 303(s) (codifying the All Channel Receiver Act (ACRA) of 1962, Pub. L. No. 87-529, 76 Stat. 150).

<sup>101</sup> The term "TV broadcast receivers" includes "devices, such as TV interface devices and set-top devices that are intended to provide audio-video signals to a video monitor, that incorporate the tuner portion of a TV broadcast receiver and that are equipped with an antenna or antenna terminals that can be used for off-the-air reception of TV broadcast signals, as authorized under part 73 of this chapter." 47 CFR § 15.117(a).

<sup>102</sup> 47 CFR § 15.117(b). See *Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MM Docket No. 00-39, Second Report and Order and Second Memorandum Opinion and Order, 17 FCC Rcd 15978 (2002) (*2002 DTV Tuner Order*) (requiring that all television receivers above a certain screen size include a tuner capable of receiving and decoding DTV signals); *affirmed by Consumer Elecs. Ass'n v. FCC*, 347 F.3d 291 (D.C. Cir. 2003) (finding the Commission had authority under ACRA to require that TVs include OTA tuners capable of decoding DTV signals). See also *Requirements for Digital Television Receiving Capability*, ET Docket No. 05-24, Second Report & Order, 20 FCC Rcd 18607 (2005) (requiring that all TV receivers include a digital tuner).

requiring that TV broadcast receivers include ATSC 3.0 tuners, observing at that time that “the deployment of ATSC 3.0 will be voluntary and market-driven and that broadcasters will continue to transmit ATSC 1.0 signals indefinitely.”<sup>103</sup>

28. We seek comment on the benefits and costs of adopting an ATSC 3.0 tuner requirement at this time. CTA contends that the marketplace is working and that a 3.0 tuner mandate is unnecessary.<sup>104</sup> CTA argues that imposing a mandate “before broadcasters have adopted and promoted NEXTGEN TV on a nationwide basis, and thus before there is adequate indication of consumer interest or demand,” would be “misguided.”<sup>105</sup> NAB contends, however, that a 3.0 tuner mandate is needed to break “the cycle of hesitation.”<sup>106</sup> That is, NAB contends that manufacturers do not want to include 3.0 tuners in more devices until there is consumer demand, and most consumers will not demand 3.0 devices until broadcasters “offer something they cannot get without it.”<sup>107</sup> Meanwhile, NAB asserts, broadcasters cannot provide such offerings until they stop simulcasting and viewers have 3.0 devices.<sup>108</sup> NAB notes that the DTV tuner mandate in 2002 was similarly intended to break this problem cycle.<sup>109</sup> NAB also argues that a 3.0 tuner mandate is needed to protect consumers, stating that “[c]onsumers buying new televisions after stations have stopped broadcasting in ATSC 1.0 should not have to worry about whether their brand-new device can receive all channels.”<sup>110</sup> We seek comment on these points. We also seek comment on whether manufacturers should be allowed to choose whether to include only a 1.0 or 3.0 tuner, and our authority to provide such flexibility. What would be potential benefits and costs of such an approach?

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<sup>103</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 9973, para. 83.

<sup>104</sup> CTA Comments at 3 (stating that “manufacturers are meeting marketplace demand for ATSC 3.0 tuners without regulatory intervention.”). *See also id.* at 7 (“There is no need for government intervention in the functioning marketplace.”). CTA also adds that a 3.0 tuner mandate is “unnecessary” and “would run directly counter to the FCC’s (and the Administration’s) strong policy preference to focus on deregulation.” *Id.* at 10.

<sup>105</sup> *Id.* at 11-12.

<sup>106</sup> NAB Petition at 13 (“This cycle of hesitation — where manufacturers delay due to market uncertainty, and broadcasters delay due to concerns over audience retention — will ultimately slow the broader adoption of ATSC 3.0 and prevent consumers from receiving its full benefits.”). *See also* NAB Reply at 13 (stating “the problem is circular. Broadcasters cannot offer the full benefits of Next Gen TV service until they can stop simulcasting in ATSC 1.0. But nearly all parties in this docket, including broadcasters, are concerned about ending simulcasting if viewers are not equipped to receive ATSC 3.0 signals.”); Philips at 4 (“Technological advances in broadcasting have often been stymied by the so-called ‘chicken-and-egg’ problem, whereby the broadcasting and consumer electronics industries unilaterally wait for a high enough penetration by the other before fully committing to supporting a new system.”).

<sup>107</sup> *See* NAB Reply at 13. *See also* CTA Comments at 12 (“Consumer demand should continue to drive tuners’ inclusion and adoption. To spur consumer demand, broadcasters must actively promote their new and unique NEXTGEN TV services.”).

<sup>108</sup> *See* NAB Reply at 13.

<sup>109</sup> *See id.* at 13-14 (“Establishing a tuner requirement today would serve the same purpose as it did the last time the FCC did so.”); *2002 DTV Tuner Order*, 17 FCC Rcd at 15993, para. 33-34 (“[G]iven the current state of the transition and considering the current availability of equipment that can receive DTV signals over-the-air, we conclude that insufficient progress is being made towards bringing to market the equipment consumers need to receive broadcasters DTV signals over-the-air. This necessary change in receiver product capabilities is not yet occurring to any meaningful degree, and the lack of DTV receiver capability is delaying the transition and may seriously impede the transition in the future.”). *See also* Philips Comments at 4 (asserting that a tuner mandate would “ensure that a sufficient number of receivers are available to support the transition” and adding that “history has shown that such a [tuner] mandate helps carry out the transition to a new broadcasting system.”).

<sup>110</sup> NAB Petition at 18. *See also* Pearl TV Comments at 5-6.

29. *Costs.* We also seek comment about the costs of a 3.0 tuner requirement for manufacturers and, in turn, the costs for consumers. In a survey of six 55-inch 4K resolution, mini-LED QLED TV sets from a national retailer, CTA found that the ATSC 3.0 TV sets were, on average, \$80 more expensive than the ATSC 1.0 sets.<sup>111</sup> We seek comment on this estimate and request further cost comparisons of ATSC 3.0 and ATSC 1.0 sets. What are the reasons for this cost difference? Would a tuner mandate lower the cost of ATSC 3.0 sets, for instance through economies of scale or for other reasons?<sup>112</sup> Are there other costs that should be considered related to a tuner mandate and what are those costs and who would bear them?

30. *Implementation.* If we decide to adopt a 3.0 tuner requirement, how should we implement the requirement? For instance, we recognize that, if adopted, manufacturers would need lead time to comply with a 3.0 tuner requirement. How much lead time would be needed? What challenges do manufacturers face? What lessons should be learned from the DTV transition with respect to lead time and implementation generally? Should we phase-in the requirement starting with TV sets with larger screens, as was done in the *2002 DTV Tuner Order*?<sup>113</sup> Should we afford smaller equipment manufacturers additional time to come into compliance and, if so, how much more time and how should we define small for these purposes?<sup>114</sup>

31. *Labeling Requirement.* We also seek comment on whether, if we were to adopt an ATSC 3.0 tuner mandate, we also should require informational labeling by wholesalers and retailers of any TV broadcast receivers which do not include an ATSC 3.0 tuner. Would this ensure that consumers have the necessary information at the point of purchase to decide if they wish to buy a television that has only an ATSC 1.0 tuner? During the DTV transition, the Commission adopted point of sale disclosure (or “labeling”) requirements for analog-only television equipment after adopting the DTV tuner requirement.<sup>115</sup> We seek comment on whether we should adopt such a requirement for ATSC 1.0-only TV broadcast receivers, and we seek comment on the costs and benefits of such a requirement as well as the Commission’s statutory authority for imposing such requirements.

32. *NAB’s User Interface Proposal.* We also seek comment on NAB’s proposal that the Commission require television receivers to “make broadcast services available to a consumer in the same or fewer steps needed to access any other video content on the same device.”<sup>116</sup> CTA contends that the Commission lacks authority to adopt such a requirement.<sup>117</sup> CTA also argues that micromanaging user

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<sup>111</sup> CTA Comments at 9 (“Removing the ‘higher end’ two models resulted in an average price among these TVs with ATSC 1.0 tuners of \$520, and the average price with ATSC 3.0 support at \$600.”)

<sup>112</sup> See NAB Petition at 14 (contending that NAB’s proposals would “encourage[] the level of mass production necessary to yield economies of scale and to lower consumer costs....”).

<sup>113</sup> See *2002 DTV Tuner Order*, 17 FCC Rcd at 15999, para. 40 (adopting differing deadlines depending on screen size).

<sup>114</sup> For example, we note that the SBA small business size standard for Television Sets Manufacturing classifies businesses having 1,250 employees or less as small. See *infra* Appx. B, IRFA, Section C (Audio and Video Equipment Manufacturing, NAICS code 334310).

<sup>115</sup> *Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion To Digital Television*, Second Report and Order, 22 FCC Rcd 8776, 8784, para.15 (2007) (*2007 DTV Labeling Order*) (citing to 47 U.S.C. §§ 151, 152(a), 154(i), 154(o), 301, 303(r), 303(s), 336).

<sup>116</sup> NAB Petition at 19-20 (“For example, if there is a button on the remote to access online services, there should be a button on the remote to access broadcast television. If there is a menu in the user interface that displays content sources, broadcast should be, by default, placed among the first page of content sources.”).

<sup>117</sup> CTA Comments at 12 (arguing that “the Commission lacks the statutory authority to exert wide-ranging authority over devices’ interfaces or over how consumers interact with devices to select what content to watch.”).

interface designs would be “bad policy.”<sup>118</sup> NAB itself acknowledges that the “Next Gen TV devices currently on the market, for the most part, do provide an easy method for viewers to access television” and that “the Commission need not resolve this concern prior to moving forward.”<sup>119</sup> We seek comment on these points and the need for such a requirement at this time. We seek comment on the costs and benefits of such a requirement and on our statutory authority for imposing such a requirement.

33. In addition to the specific issues noted above, we seek comment generally on any other matters related to a 3.0 tuner mandate, including but not limited to matters raised in the existing record.

## 2. Encryption of OTA Broadcast Signals

34. We seek comment about whether we should adopt standards and/or rules concerning the encryption and/or signing of free, OTA television broadcast signals and what authority the Commission has to impose such standards and/or rules. Encryption scrambles data in such a way that it can be accessed only with a digital “key.” Digital Rights Management (DRM) is a type of encryption that can be used for protecting digital content and is contemplated by the ATSC 3.0 Standard.<sup>120</sup> Signal signing is an encrypted method of authenticating a broadcast signal. It confirms that the signal originated with a specific signer (station), and that it has not been altered since it was signed. The ATSC 3.0 Security Authority (A3SA), a private entity founded by the major broadcast networks and large broadcast companies, is currently administering the broadcaster DRM encryption and signal signing programs.<sup>121</sup> A3SA argues that encryption is “essential for the security of broadcast transmissions, applications and content” and “insures [*sic*] NextGen broadcasts meet the standards specifications, can work correctly with receivers, provide viewers with Internet level security, allows broadcasters to protect content from piracy and provides for future monetization opportunities.”<sup>122</sup> As this DRM encryption program has been

<sup>118</sup> *Id.* (adding that “the FCC should not risk locking in user interface designs that are likely to change in ways beneficial to consumers in the future, nor should the government seek to force businesses away from pro-consumer initiatives for the sake of complying with new regulation.”). See also NCTA Comments at 17 (stating that “television manufacturers should be free to design their products in response to consumer preferences and marketplace dynamics. The Commission should not hinder innovation and skew the marketplace by granting broadcast television stations automatic preferential placement on TVs or remote controls.”).

<sup>119</sup> NAB Reply at 14-15.

<sup>120</sup> See ATSC Standard A/360, “ATSC 3.0 Security and Service Protection,” (2024), <https://www.atsc.org/wp-content/uploads/2024/05/A360-2024-04-Security.pdf>; ATSC Recommended Practices (RP) A/362, “Digital Rights Management (DRM)” (2024), <https://www.atsc.org/wp-content/uploads/2024/05/A362-2024-04A-RP-DRM.pdf>.

<sup>121</sup> Specifically, A3SA’s “founding members” are “ABC, CBS, Fox, NBCUniversal, Univision, and the Pearl TV business group of eight broadcast companies.” See A3SA, Home Page, <https://a3sa.com/> (last visited Aug. 21, 2025). Pearl TV’s website states that it currently consists of “nine of the largest broadcast companies in America including: Cox Media Group, the E.W. Scripps Company, Graham Media Group, Hearst Television Inc., Gray Television, Sinclair Broadcast Group and TEGNA, Inc.” Pearl TV, *About Pearl TV*, <https://pearlTV.com/about/> (last visited Sept. 30, 2025). According to its website, “A3SA provides device manufacturers and broadcasters with access to standardized protection and security credentials that enable secure delivery of high-value television content while adding new features to free over-the-air television that protect viewers of that content wherever they live.” A3SA, Home Page, <https://a3sa.com/> (last visited Aug. 21, 2025). A3SA states that its content security “utilizes the same encryption technology used by Internet streaming services.” See A3SA, “A Short Introduction to ATSC 3 Security Systems for Broadcasters,” <https://a3sa.com/wp-content/uploads/2023/12/A-Short-Introduction-to-ATSC-3-Security-Systems-for-Broadcasters-2022.03.24.pdf> (last visited Aug. 21, 2025).

<sup>122</sup> According to the A3SA website, “[t]he ATSC 3.0 standard specifies service and content protection systems that are essential for the security of broadcast transmissions, applications and content. Implementing these systems insures NextGen broadcasts meet the standards specifications, can work correctly with receivers, provide viewers with Internet level security, allows broadcasters to protect content from piracy and provides for future monetization opportunities. The A3SA (ATSC 3.0 Security Authority) was created by the major networks and large broadcast groups, in consultation with the Consumer Technology Association (CTA), to implement these ATSC standards.” See A3SA, “Security Systems for NextGen TV Broadcasts Executive Summary,” at 1 (2022) (*A3SA Executive*

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deployed and stations have begun to encrypt 3.0 signals that previously aired without encryption, however, many viewers have been unable to watch certain 3.0 signals on equipment they purchased specifically for that purpose.<sup>123</sup> This has led to thousands of consumer comments in this docket opposing the use of encryption on free OTA broadcast signals, many filed by early adopters of ATSC 3.0 technology even before the Commission's most recent Public Notice.<sup>124</sup> We acknowledge the widespread consumer frustration expressed in these filings. We seek to ensure the public's ability to easily watch stations' free OTA signals in ATSC 3.0 just as they do today. We also seek to provide regulatory certainty to equipment manufacturers (including those who incorporate decryption keys/capabilities in their devices) and ensure that broadcasters' chosen encryption regime, if any, does not impose unreasonable costs and burdens on them,<sup>125</sup> particularly if we decide to adopt a 3.0 tuner requirement.

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Summary), <https://a3sa.com/wp-content/uploads/2023/12/Security-Systems-for-NextGen-TV-Broadcasts-Executive-Summary-2022.03.24.pdf> (last visited Aug. 25, 2025).

<sup>123</sup> Many of these commenters are users of SiliconDust's HDHomeRun gateway device. Despite it being the first commercially-available ATSC 3.0 receiver box in the market (in October 2020), as well as the best-selling 3.0 receiver box on Amazon today, SiliconDust's HDHomeRun has not been able to obtain the necessary decryption approvals. A3SA and SiliconDust have blamed each other for this impasse. *See, e.g.*, Letter from Gerard J. Waldron, Counsel to Pearl TV, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 16-142, at 1 (filed July 25, 2025) (Pearl TV July 25 Letter) (stating that the HD HomeRun "utilizes a chip manufactured by HiSilicon, a wholly-owned subsidiary of Huawei," which "has been identified as 'a national security threat to the integrity of our communications networks' by the Commission and placed on the US Commerce Department's 'Entity List'" and also that the HDHomeRun lacks a the requisite Widevine Level 1 CDM license); Silicondust July 30 Letter at 1 (stating "Silicondust is not required or expected to have the Level 1 CDM license described by Pearl" and that "these invented rules and requirements came seven months after Silicondust had successfully completed NextGen TV certification of a number of player devices, with the list of certified player devices being well known."). *See also* Jared Newman, Cord-Cutter Confidential, "Inside HDHomeRun's big bet on ATSC 3.0," (May 7, 2020), <https://www.techhive.com/article/578541/inside-hdhome-runs-big-bet-on-atsc-3-0.html>.

<sup>124</sup> *See generally* GN Docket No. 16-142. *See also* MB April 7 PN at para. 8. *See also, e.g.*, Eric Aucoin Comments ("Keep OTA accessible to all, and bar encryption from being applied to local broadcast television signals."); Larry Holombo Comments ("Please do not allow broadcasters to use DRM on ATSC 3.0. The American Public owns the airwaves, not the broadcasters."); Huy Hoang Comment ("Despite having purchased certified ATSC 3.0 equipment to support this setup, I am unable to access encrypted broadcasts because the A3SA restricts gateway usage."); Nicklas Johnson Comment ("As it stands today, despite many channels in the San Francisco Bay Area broadcasting from the ATSC 3.0 'lighthouse' on ATSC channel 7, I cannot tune most of these channels at all – [digital rights management] DRM has been taken to its logical conclusion and the content cannot be received, despite my receiver being ATSC 3.0 capable."); Ron Webb Comment ("I was an early supporter of ATSC 3.0. I backed the Silicondust HDHomeRun CONNECT 4K on Kickstarter and eagerly awaited ATSC 3.0 availability in Sacramento. But as soon as major networks like NBC, ABC, and The CW began encrypting their broadcasts, my investment became worthless.").

<sup>125</sup> *See, e.g.*, Letter from Nicholas J. Kelsey, President, Silicondust USA, Inc., to Marlene H. Dortch, Secretary, FCC, MB Docket No. 16-142, at 5 (filed Aug. 1, 2025) (Silicondust Aug. 1 Letter) ("[T]he DRM approach required by the A3SA for gateway devices incurs significant development costs and ongoing costs – money that must be paid by the product vendor."); Letter from Tyler Kleinle (of the Antennaman YouTube channel) and Lon Seidman (of the Lon.TV YouTube channel), to Marlene H. Dortch, Secretary, FCC, MB Docket No. 16-142, at 1 (filed Aug. 18, 2025) (Kleinle- Seidman Aug. 18 Letter) ("ATSC 3.0 requires both an expensive 'NextGen TV' certification AND an equally expensive A3SA certification in order to tune live television. This friction locks many small companies out of the market, and ... large manufacturers too."); Letter from Nicholas J. Kelsey, President, Silicondust USA, Inc., to Marlene H. Dortch, Secretary, FCC, MB Docket No. 16-142, at 2 (filed July 30, 2025) (Silicondust July 30 Letter) (contending that "special rules and requirements prevent any video gateway device from working with the wide range of televisions and player devices people enjoy using to watch unencrypted ATSC 3.0 content from their HDHomeRun video gateway today.").

35. *A3SA Requirements.* As an initial matter, we seek more information about the A3SA and the requirements it imposes on broadcasters and 3.0 equipment manufacturers seeking to encrypt or decrypt broadcast programming. We note that A3SA does not appear to have a formal relationship with the ATSC, nor does it appear to be a standards-setting organization. We seek comment on these points. To what extent does A3SA operate independently of its broadcaster and broadcast network founders in relationships with manufacturers and smaller broadcasters?<sup>126</sup> A3SA states that it “makes available a platform and infrastructure for content security, establishes implementation compliance rules, facilitates interoperability between broadcasters and devices, and provides a means for third party certification or self-certification.”<sup>127</sup> According to A3SA’s website, “[a]ll stations are required to have A3SA and Widevine licenses.”<sup>128</sup> We seek comment on these licenses and what is needed to obtain and retain them over time.<sup>129</sup> We seek information about A3SA’s implementation requirements, as well as any other requirements imposed by third parties.<sup>130</sup> Are these requirements in line with those applied to, for example, video streaming services and, if not, how do they differ?<sup>131</sup> Are there entities beyond A3SA that control access to Widevine licenses and if so who are those entities and what costs or other requirements do they impose? We also seek comment on the costs and benefits of this encryption program to all stakeholders.<sup>132</sup> Are there limitations on any of the potential capabilities of ATSC 3.0, such as mobile viewing or time shifted viewing, that are impacted by the need to use Widevine? Are steps being taken to permit interoperability with other platforms?<sup>133</sup> Are broadcast signals capable of including multiple encryption methods without the use of significant additional capacity? Are there alternate products that

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<sup>126</sup> See, e.g., SiliconDust Aug. 1 Letter at 2 (“The five broadcast networks that make up the deciding members of the A3SA have asserted control over what was just five years ago a free market for TV receiver products. The free market is gone.”).

<sup>127</sup> See Letter from Gerard J. Waldron, Counsel to Pearl TV and the A3SA, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 16-142, at 1 (filed Aug. 25, 2025) (A3SA Aug. 25 Letter).

<sup>128</sup> *A3SA Executive Summary* at 2 (stating A3SA has “worked with Google subsidiary Widevine to adapt their proven broadband content protection for digital rights management (DRM) and encryption for ATSC 3.0. This system is licensed through A3SA on an annual basis. All stations are required to have A3SA and Widevine licenses.”). See also Google Widevine, “Digital Rights Management, Overview,” <https://developers.google.com/widevine/drm/overview> (last visited Aug. 29, 2025) (“Widevine DRM is Google’s content protection system for premium media.”).

<sup>129</sup> See Comments of Public Knowledge, Access Humboldt, Consumer Reports, Electronic Frontier Foundation, Media Council Hawaii, Open Technology Institute at New America (Consumer Groups) at 20 (stating “A3SA’s licensing terms are time-limited (typically 10 or 30 years), which means that compliant devices may be rendered inoperable or obsolete when their certification expires, regardless of whether the hardware continues to function.”).

<sup>130</sup> We note that, to the extent some of this information is considered proprietary, it may be submitted to the Commission with a request for confidentiality. See 47 CFR § 0.459.

<sup>131</sup> See, e.g., SiliconDust Aug. 1 Letter at 5.

<sup>132</sup> According to the *A3SA Executive Summary* document, A3SA’s annual costs for content protection are \$1,000.00 for small market stations, \$1,500.00 for middle market stations, and \$2,000.00 for large market stations. *A3SA Executive Summary* at 2. The document does not contain similar pricing information for manufacturers.

<sup>133</sup> Commenters indicate that use of Widevine DRM means that encrypted programming can only be viewed on devices that implement Google Widevine, which excludes the use of Apple or Microsoft devices that implement different encryption schemes, and may exclude other makers of such devices that do not implement Widevine. See, e.g., SiliconDust Aug. 1 Letter at 7; Kleinle- Seidman Aug. 18 Letter at 2 (“As currently implemented, encryption also locks out many popular consumer platforms and works only on a limited number of Samsung Tizen, Google/Android TV, and Fire TV devices. As noted in our presentation, well over half of the smart TVs and set-top boxes currently used by consumers to stream content are not compliant with A3SA’s opaque, private regulation.”); Stephen L Pendergast Comment at 3 (suggesting that “[i]f some form of content protection is deemed necessary, establish open technical standards that ensure broad interoperability across devices and platforms without requiring expensive certification processes or restricting consumer rights.”).

could provide the same security or other services provided by Widevine and if so why should such products not be available as solutions in the context of ATSC 3.0? Does the protocol make it more complicated for consumers to access broadcast signals, or does it make it more challenging for viewers without an internet connection to access broadcast signals? To what extent are stakeholders prevented from raising issues about A3SA requirements due to non-disclosure agreements?<sup>134</sup>

36. *Competition Concerns.* We seek comment on the concerns raised in the record about the A3SA's "gatekeeping" role and its impact on competition in the marketplace, particularly with respect to 3.0 converter devices.<sup>135</sup> Consumer Groups argue that "DRM permits licensees of public spectrum to act as gatekeepers not only over the content they broadcast, but over the devices and technologies the public may lawfully use to access that content."<sup>136</sup> What is the impact of this encryption regime on the marketplace? Are the costs and requirements of the encryption program deterring market entry?<sup>137</sup> As the Commission has previously observed, ATSC 3.0 patent holders have committed to making their patents available on reasonable and non-discriminatory (RAND) terms, making it possible for any manufacturer to participate in the NextGen TV marketplace.<sup>138</sup> Are decryption keys/capabilities and related licenses also being made available on RAND terms? Are there private commitments to provide decryption keys/capabilities and related licenses on RAND terms that have been made by A3SA or ATSC?<sup>139</sup> According to A3SA, different types of devices are treated differently.<sup>140</sup> What is the differing treatment and the reason for this difference? We seek comment on the extent of this problem, including which 3.0 sets and devices are not capable of decryption and the relative cost of such sets and devices in comparison to the sets and devices that are capable of decryption.

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<sup>134</sup> See Kleinle-Seidman Aug. 18 Letter at 23, Appx. 2 ("NDAs Prohibit Manufacturers from Speaking Out."); Weigel Aug. 27 Letter at 3 ("It appears that A3SA will not even discuss issuing a license to broadcasters that do not sign a non-disclosure agreement.").

<sup>135</sup> See, e.g., Kleinle-Seidman Aug. 18 Letter at 1 ("As consumers of antenna television and experts in available consumer devices, we believe the root cause of the slow up-take in consumer adoption for ATSC 3.0 tuners is the DRM encryption. The cost of complying with opaque, private regulations imposed on device manufacturers by the A3SA has resulted in market gatekeeping that significantly limits consumer choice."); Consumer Groups Comments at 20 ("This model raises grave concerns under both competition policy and the public interest standard of the Communications Act. A3SA, as currently structured, operates without meaningful external oversight. Its licensing terms are confidential, its decision-making processes are opaque, and its accountability to consumers, innovators, and public interest stakeholders is nonexistent. In effect, it serves as a privatized gatekeeper to the public airwaves. This is wholly inconsistent with the FCC's obligation to ensure that access to spectrum is governed by fair, open, and nondiscriminatory rules."); SiliconDust Aug. 1 Letter at 2 (stating that if it were not for encryption, device manufacturers would "be free to develop tuning solutions by simply following ATSC 3.0 specifications versus going through a private review process. The cost to manufacture ATSC 3.0 equipment would be reduced with more competition in the retail marketplace.").

<sup>136</sup> Consumer Groups Comments at 18.

<sup>137</sup> See, e.g., *id.* at 20 ("[A]ny manufacturer wishing to build a device that receives encrypted ATSC 3.0 content must enter into a licensing agreement with A3SA, comply with a complex set of design and behavior requirements, and submit to certification and compliance testing.... Startups, open-source projects, and academic developers lack the resources or institutional connections to navigate the A3SA certification process. Many will simply be locked out of the ATSC 3.0 ecosystem. Even large manufacturers may choose to avoid the standard altogether, fearing the costs and restrictions associated with DRM compliance.").

<sup>138</sup> *Third Report and Order and Fourth FNPRM*, 38 FCC Red at 6442, para. 50.

<sup>139</sup> A3SA states that its "uniform set of policies" apply "equally and objectively to all manufacturers of a particular device type." A3SA Aug. 25 Letter at 1. *But see* Consumer Groups Comments at 20 ("Devices that fail to meet A3SA's standards, or whose features are deemed undesirable by content providers, can be excluded from the market altogether.").

<sup>140</sup> A3SA Aug. 25 Letter at 1.



37. *Definition of Broadcasting.* Consumer groups and others allege that in practice “[t]he use of DRM, private device certification, and internet return-path dependencies renders ATSC 3.0 transmissions legally and functionally distinct from traditional broadcasting.”<sup>141</sup> We seek comment about whether broadcasters’ current encryption regime, as administered by A3SA, implicates the fundamental question of whether video programming streams distributed via 3.0 meet the definition of “broadcasting.” The Communications Act defines “broadcasting” as “the dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations,”<sup>142</sup> and a “broadcast station” as “a radio station equipped to engage in broadcasting.”<sup>143</sup> The Commission has determined that this definition applies to services intended to be received by an indiscriminate public and has identified three non-exclusive indicia of a lack of such intent: (1) the service is not receivable on conventional television sets and requires a licensee or programmer-provided special antennae and/or signal converter so the signal can be received in the home; (2) the programming is encrypted in a way that “makes it unusable by the public” and that is not “enjoyable without the aid of decoders”; or (3) the provider and the viewer are engaged in a private contractual relationship.<sup>144</sup> In the *First Next Gen TV Report and Order*, the Commission said it expected that “stations transmitting ATSC 3.0 signals will be engaged in ‘broadcasting’ within the meaning of the Communications Act.”<sup>145</sup> The Commission anticipated that the free, over-the-air ATSC 3.0 programming stream would be “intended to be received by all members of the public” and would “not require a private contractual agreement between the broadcaster and the viewers,” and that “ATSC 3.0 transmissions will be receivable eventually on conventional television sets.”<sup>146</sup> The Commission in 2017 acknowledged NAB’s prediction that “free Next Gen signals may be encrypted,” but emphasized that “[p]rogramming that is encrypted must not require special equipment supplied and programmed by the broadcaster to decode.”<sup>147</sup> We seek comment on whether the current 3.0 encryption regime, as administered by A3SA and implemented by broadcasters, constitutes “broadcasting” within the meaning of the Communications Act.<sup>148</sup>

38. *Consumers’ Ability to View Encrypted Signals.* We seek comment on whether we should adopt rules requiring device manufacturers to ensure that encrypted 3.0 signals are able to be displayed on all TV sets and devices that conform to the 3.0 standard, particularly if we decide to adopt a 3.0 tuner requirement.<sup>149</sup> Would the stated requirements of section 303(s)—that TV broadcast receivers be capable of “adequately receiving all television signals”—be met if we did not also require that receivers be

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<sup>141</sup> Consumer Groups Comments at 23.

<sup>142</sup> 47 U.S.C. § 153(7).

<sup>143</sup> *Id.* § 153(6). *See also id.* § 153(56)(B) (“The term ‘digital television service’ means television service provided pursuant to the transmission standards prescribed by the Commission in section 73.682(d) of its regulations (47 C.F.R. 73.682(d)).”).

<sup>144</sup> *See Subscription Video Services*, Report and Order, 2 FCC Rcd 1001, 1006, para. 41 (1987) (concluding that subscription TV and DBS services are not “broadcasting” within the meaning of the Communications Act), *aff’d*, *National Association for Better Broadcasting v. FCC*, 849 F.2d 665, 669 (D.C. Cir. 1988).

<sup>145</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 9935, para. 7.

<sup>146</sup> *Id.*

<sup>147</sup> *Id.* at 9936, para. 9, n.29.

<sup>148</sup> Consumer Groups Comments at 23 (explaining that “[t]he essential attributes of this definition are clear: broadcasting must be public-facing, unconditionally accessible, and not limited by individualized authorization or subscription mechanisms. ATSC 3.0 transmissions fail to meet these criteria.”).

<sup>149</sup> *See, e.g., id.* at 25 (“A television may technically include an ATSC 3.0 tuner and meet RF front-end specifications, yet still be unable to ‘adequately receive’ a Commission-authorized signal unless it complies with licensing and cryptographic obligations imposed by A3SA.”). *See supra* paras. 27-30.

capable of displaying encrypted signals?<sup>150</sup> Alternatively, should we, at a minimum, require that devices that cannot display 3.0 encrypted signals disclose such limitation at the point of sale to consumers? We seek comment on how such a notice could be provided and whether there are other means to provide consumers the same information (e.g., by requiring broadcasters that encrypt their signal(s) to provide notice via their website or some other means). We note, for example, that NEXTGEN TV logo certified devices<sup>151</sup> are not necessarily able to display encrypted 3.0 signals, as the logo program is separate from the A3SA decryption program.<sup>152</sup> The FOTVI Report indicated that “[d]iscussions are underway to unify the testing programs.”<sup>153</sup> We seek comment on the status of those discussions and the likelihood that they will result in a program that ensures consumers are able to view encrypted signals on NEXTGEN TV-certified equipment. What is the extent of this problem, including which 3.0 sets and devices carry the logo but are not currently capable of displaying encrypted signals and the reasons for this disconnect. We also seek comment on Consumer Groups’ concern that “[i]f the Commission mandates a nationwide transition to ATSC 3.0 while permitting broadcasters to encrypt signals such that only A3SA-approved devices may receive them, it will effectively outsource the operability of broadcast reception to a private entity.”<sup>154</sup>

39. Finally, we seek comment on whether broadcasters should be required to use a specific encryption method to provide regulatory certainty to equipment manufacturers and prevent viewer confusion as to what devices will work in order for them to receive broadcast signals. What is the potential impact on equipment manufacturers, and the consumers of televisions and reception equipment, if broadcaster encryption methods change over time or if different encryption methods are used by different stations? For example, if an encryption-capable receiver is built in 2025, what will happen to that receiver if broadcasters change their type of encryption in the future? Could this be addressed by a software update, and if so, how will non-internet-connected devices receive this update? Are there time or other limits on the ability of devices to obtain updates, or costs that must be borne by either manufacturers or consumers?

40. *Fair Use and Encoding Rules.* We seek comment on whether to adopt encoding rules to ensure consumers can continue to watch OTA TV with the features and functionalities that are available to viewers of OTA 1.0 programming.<sup>155</sup> As discussed above, thousands of individual consumers have expressed concern that DRM encryption would place technological restrictions on consumer devices,

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<sup>150</sup> See 47 U.S.C. § 303(s) (emphasis added). See also *supra* para. 27.

<sup>151</sup> According to the FOTVI Report, “NEXTGEN TV-certified television sets offer a streamlined way for consumers to continue to receive television service as broadcasters transition to ATSC 3.0. The Consumer Technology Association (CTA) established the NEXTGEN TV certification program to help consumers easily identify televisions and devices that are compatible with the ATSC 3.0 broadcast standard. Televisions that are certified under this program bear the NEXTGEN TV logo, indicating that they have been verified to receive, decode, and display ATSC 3.0 signals accurately.” See FOTVI Report at 5. See also *id.* at 19; CTA Comments at 5; Press Release, CTA, New Industry-Approved “NEXTGEN TV” Name, Logo Will Distinguish ATSC 3.0-Enabled Tech Devices (Sept. 26, 2019), <https://www.cta.tech/press-releases/new-industry-approved-nextgen-tv-name-logo-will-distinguish-atsc-30-enabled-tech-devices>.

<sup>152</sup> See FOTVI Report at 19 (acknowledging that “not all devices that bear the NEXTGEN TV logo carry certificates from the A3SA for signal signing and encryption capabilities.”). The FOTVI Report states that “A3SA’s verification test suite is currently separate from the NEXTGEN TV test suite, but most devices go through the processes simultaneously.” *Id.*

<sup>153</sup> *Id.*

<sup>154</sup> Consumer Groups Comments at 24-25.

<sup>155</sup> See A3SA Aug. 25 Letter at 1 (stating that a purpose of the A3SA is to “enable consumers to access that high value content with the features and functionalities that consumers have come to expect.”).

such as blocking time-shifting and other features, and interfere with viewers' fair use<sup>156</sup> of free OTA programming.<sup>157</sup> The NAB Petition states it would not object to the Commission's adoption of encoding rules.<sup>158</sup> According to the FOTVI Report, A3SA has approved a set of "encoding rules" for encrypted 3.0 broadcasts "[t]o provide extra reassurance for viewers of ATSC 3.0 content," though they apply only if the signal is simulcast in 1.0.<sup>159</sup> These rules are:

- (1) Viewers must be allowed to decrypt and record these broadcasts even if they are using a less secure device that requires an internet connection;
- (2) Viewers must be allowed to make an unlimited number of copies of these broadcasts;
- (3) Such copies cannot have retention limits;
- (4) Viewers must be allowed to use 'trick play' features such as pause, rewind, fast-forward, and ad-skipping;
- (5) Viewers must be allowed to use any authorized digital output (i.e., no selectable output control); and
- (6) Viewers must be allowed to use analog outputs to connect to legacy TVs (i.e., no prohibition or required down-resolution).<sup>160</sup>

We seek comment on A3SA's encoding rules. Would they ensure viewers retain the same features and functionalities that they enjoy today? Should they apply even if the signal is not simulcast in 1.0? We also seek specific comment on our authority to adopt encoding rules such as the ones established by A3SA.<sup>161</sup>

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<sup>156</sup> According to one commenter, "[f]air use is a constitutionally grounded doctrine that permits individuals to record, excerpt, transform, or repurpose content for criticism, education, commentary, research, and personal use. The contours of fair [use] have been affirmed repeatedly by the federal courts, most notably in *Sony Corp. of America v. Universal City Studios*, 464 U.S. 417 (1984), which held that individuals have the right to time-shift broadcast content for later viewing in the privacy of their homes." Consumer Groups Comments at 18.

<sup>157</sup> See, e.g., James Davenport Comments ("Free TV should mean exactly that — free as in cost, and free as in freedom. That includes access via antennas without subscriptions, restrictions, or Digital Rights Management (DRM) that undermines fair use or locks out those who rely on OTA broadcasts as their primary or only source of news, entertainment, and emergency alerts."); James Michael Barcus Comments ("Please remove the DRM restrictions as some people at home enjoy rewatching programs on their DVR boxes."); Marc C Brooks, et al. Comments ("DRM is an ineffective attempt to prevent FAIR USE that has been repeatedly ruled against in when the question of the rights of the consumer (and OWNER of these public airwaves) to watch, record, or time-shift the programming for PERSONAL and NON-COMMERCIAL use."); Arthur Doyle Comments ("DRM fundamentally threatens the ability of viewers to record and time-shift broadcasts for personal use, a long-established and expected consumer right upheld by the Supreme Court (*Sony Corp. of America v. Universal City Studios, Inc.*). Preventing or overly restricting home recording capabilities (DVRs, PC tuners) severely diminishes the value and utility of OTA television."). See also Consumer Groups Reply at 3 ("DRM would fundamentally alter the character of broadcasting, imposing competitive and technological restrictions on consumer devices and blocking fair use rights protected under U.S. copyright law and the First Amendment.").

<sup>158</sup> NAB Petition at 23. NAB makes reference to outdated rules which have since been removed.

<sup>159</sup> FOTVI Report at Appx. 2, slide 7.

<sup>160</sup> *Id.*

<sup>161</sup> We note that, in 2013, the District of Columbia Circuit Court of Appeals (D.C. Circuit) vacated encoding rules the Commission had applied to the satellite television context. *EchoStar Satellite LLC v. FCC*, 704 F.3d 992 (D.C. Cir. 2013) (*EchoStar Satellite*) (finding the Commission lacked authority to impose certain encoding rules on satellite carriers).

41. *Signal Signing.* We seek comment on signal signing. ATSC has adopted a standard for signal signing in ATSC Standard A/331.<sup>162</sup> According to A3SA, which is administering the signal signing program, “[s]ignal signing ensures the signal being received is from an FCC licensed broadcaster and that the information received has not been tampered with.”<sup>163</sup> Although not required by our rules, A3SA states that the ATSC standard requires all broadcasters to use signal signing, even if they are not encrypting their signals.<sup>164</sup> In light of A3SA’s assertions, should a requirement for signal signing be included in the Commission’s rules? Should signal signing be required for all broadcasters? We seek information on how broadcasters could implement signal and application signing. What are the consequent costs and requirements imposed on broadcasters and equipment manufacturers?<sup>165</sup> LPTVBA has expressed concern that signal signing costs “could prove unaffordable for many small stations, potentially forcing many smaller TV broadcasters to go out of business.”<sup>166</sup> We seek comment on the number and characterization of stations that may not be able to afford signing costs. In addition, LPTVBA further explains that “[a] certified ATSC 3.0 receiver cannot reliably display content from a non-certified ATSC 3.0 transmitter.”<sup>167</sup> That is, devices that comply with A3SA’s rules may not display unsigned 3.0 broadcast signals.<sup>168</sup> We seek comment on these issues and the impact of signal signing on viewers ability to access to broadcast signals. To what extent are broadcasters using signal signing today?

42. We also understand that at some future date set by A3SA (referred to as “high noon”), unsigned 3.0 broadcast signals will either no longer be displayed on receivers or will display an error message about the unsigned status of the signal.<sup>169</sup> How will the timing of “high noon” be determined? Will devices allow for users to decide whether to view signals with expired or missing certificates? We seek comment on these points. Weigel claims that A3SA has made itself the only practical source for signing certificates.<sup>170</sup> Weigel further expresses concern that A3SA asserts the authority to revoke a

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<sup>162</sup> ATSC Standard A/331, “Signaling, Delivery, Synchronization, and Error Protection,” (2025), <https://www.atsc.org/wp-content/uploads/2025/06/A331-2025-06-Signaling-Delivery-Sync-FEC.pdf>.

<sup>163</sup> See A3SA, “A Short Introduction to ATSC 3 Security Systems for Broadcasters,” (2022) (*A3SA Short Intro*), <https://a3sa.com/wp-content/uploads/2023/12/A-Short-Introduction-to-ATSC-3-Security-Systems-for-Broadcasters-2022.03.24.pdf> (last visited Aug. 21, 2025).

<sup>164</sup> See *A3SA Executive Summary* at 1.

<sup>165</sup> For example, according to the *A3SA Executive Summary* document, all broadcasters are required to obtain “digital certificates” from Eonti, a third-party company. See *id.* at 2. A3SA states that “there are fees associated with the acquisition and use of Eonti’s services/certificates.” *Id.* These include annual costs of \$998.00 for signal signing, \$499 for application signing, and other optional services. *Id.*

<sup>166</sup> Letter from Frank Copsidas, President of LPTVBA, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 16-142, at 1 (filed Aug. 22, 2025) (LPTVBA Aug. 22 Letter).

<sup>167</sup> *Id.* at 2.

<sup>168</sup> See also *A3SA Short Intro* at 1 (“Depending upon a consumer’s settings, a receiver may decline to display an unsigned station’s content. For applications, many receivers will not launch an unsigned or improperly signed application.”); Letter from Evan Fieldman, Executive Vice President, Weigel Broadcasting, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 16-142, at 2 (filed Aug. 27, 2025) (Weigel Aug. 27 Letter) (stating that A3SA “has issued a requirement that A3SA-certified receiver manufacturers build into their products a switch that queries whether a broadcaster is transmitting an A3SA issued signaling certificate, and if not, to cause the receiver not to display the broadcast signal. That is, even non-DRM signals will ‘go dark’ on that receiver.”).

<sup>169</sup> *Id.* (“The A3SA organization is warning broadcasters about transmitting without an A3SA certificate. Weigel recently worked with a leading ATSC 3.0 test lab to simulate how A3SA’s planned ‘High Noon’ would affect consumers’ ability to receive ATSC 3.0 TV signals. The results confirmed that signals (including non-DRM content) transmitted without an A3SA-issued certificate will not be displayed.”).

<sup>170</sup> *Id.*

certificate for any failure to comply with the terms of the “agreements” it requires of broadcasters.<sup>171</sup> What are the costs and impacts to the industry and consumers if A3SA enters into, or has entered into, contracts with major equipment manufacturers that require such manufacturers to use only A3SA approved signal signing? Should Commission rules address these costs, and if so, how? What type of oversight, if any, should the Commission have over such arrangements in order to ensure continued access to free OTA broadcast signals, and what would be the Commission’s authority for such oversight? We seek comment on these points. How does this process compare with that used for the Internet and streaming services?<sup>172</sup> What is the reason for any differences?

43. In addition to the specific issues noted above, we seek comment generally on any other matters related to encryption of 3.0 signals, including but not limited to matters raised in the existing record.

### 3. MVPD Carriage

44. We seek comment on whether we should make any changes to our MVPD carriage rules in light of our proposal to eliminate the simulcasting requirement. We also seek comment on the changes to our carriage rules that will be needed after the 3.0 transition is complete. Under our current rules, a Next Gen TV station may assert mandatory carriage rights only with respect to its ATSC 1.0 signal but not its ATSC 3.0 signal.<sup>173</sup> Absent changes to our rules, a Next Gen TV station that is operating only in 3.0 (i.e., a station that is not simulcasting in 1.0) may not assert mandatory carriage rights,<sup>174</sup> but its signal may be carried pursuant to retransmission consent.<sup>175</sup>

45. Under the Communications Act, full power television broadcast stations, and certain low power stations, are entitled to mandatory carriage of their signal (also known as “must carry”)<sup>176</sup> on any

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<sup>171</sup> *Id.* (adding “The revocation of an A3SA certificate would essentially result in a licensed broadcast station being unavailable for viewing on every major television because of the way A3SA’s standards would have to be implemented by certified device manufacturers.”).

<sup>172</sup> *Id.* (“Unlike certificate concepts used for the Internet that can be purchased from more than 100 established certificate authorities, for certificates to work properly on A3SA certified receivers there is only one practical source for certificates: A3SA. Those certificates must be renewed annually, currently at a cost of \$998 per station. And broadcasters will have no choice but to comply with whatever rules A3SA may choose to adopt.”).

<sup>173</sup> 47 CFR §§ 76.56(h), 76.66(o). A Next Gen TV station that airs its 1.0 simulcast signal on a host station may assert mandatory carriage rights only if it (1) qualified for, and has been exercising, mandatory carriage rights at its original location, and (2) continues to qualify for mandatory carriage at the host station’s facilities, including (but not limited to) delivering a good quality 1.0 signal to the MVPD, or agreeing to be responsible for the costs of delivering such a signal to the MVPD. Under our existing must carry rules, broadcasters are required to bear the costs of delivering a good quality signal to MVPDs. *See* 47 CFR §§ 76.60(a), 76.66(g). The rules, however, do not apply to the costs on MVPDs of receiving and redistributing the signal to their subscribers, and so MVPDs generally assume these costs. Such costs are generally viewed as the costs of doing business as MVPDs. *First Next Gen TV Report and Order*, 32 FCC Rcd at 9967, n.210.

<sup>174</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 9961, para. 67. The Commission further stated that a 3.0-only station could not assert carriage rights even if it arranged for an alternative method of delivery to MVPDs. *Id.* at 9963-64, para. 69.

<sup>175</sup> The Commission has declined to adopt any restrictions on the voluntary carriage of 3.0 signals pursuant to retransmission consent. *First Next Gen TV Report and Order*, 32 FCC Rcd at 9969-70, paras. 77-78, *affirmed by Second Next Gen TV Report and Order*, 35 FCC Rcd at 6822, para. 57 (2020). In 2017, the Commission found that it was “premature to address any issues that may arise with respect to the voluntary carriage of ATSC 3.0 signals before broadcasters begin transmitting in this new voluntary standard” and concluded that retransmission consent issues should be addressed at the outset through marketplace negotiations. *First Next Gen TV Report and Order* 32 FCC Rcd at 9970, para. 78.

<sup>176</sup> *See* 47 U.S.C. § 534(a) (“Each cable operator shall carry on the cable system of that operator, the signals of local commercial television stations and qualified low power stations as provided by this section.”); 47 U.S.C. § 534(c)

(continued....)

cable system located within their local market.<sup>177</sup> Full power stations also have carriage rights on any DBS operator providing local service into the market.<sup>178</sup> If a broadcast station asserts its must carry rights, the MVPD may not accept or request any compensation from the broadcaster in exchange for carriage of its signal.<sup>179</sup> Alternatively, commercial broadcast stations with carriage rights may elect “retransmission consent.”<sup>180</sup> The terms of retransmission consent frequently include, among other negotiated terms, compensation from the MVPD to the broadcaster in exchange for the right to carry the station’s signal.<sup>181</sup> If the broadcaster and MVPD cannot reach a retransmission consent agreement, however, the MVPD is prohibited from carrying the broadcaster’s signal.<sup>182</sup> Thus, commercial broadcasters are presented with a carriage choice—elect mandatory carriage and forego compensation while assuring carriage, or elect retransmission consent and forego assured carriage while retaining the possibility of compensation for carriage. Noncommercial educational stations (NCEs) are entitled to must carry, but not to elect retransmission consent.<sup>183</sup>

(Continued from previous page)

(stating that if there are not sufficient signals of full power commercial television stations to fill the cable operator’s channel set aside, the cable operator shall be required to carry one or two qualified low power stations, which may include a Class A television station or a low power television station, depending on the operator’s channel capacity); 47 U.S.C. § 534(h)(2) (defining what constitutes a qualified low power station); 47 U.S.C. § 535 (carriage of qualified NCE television stations); 47 U.S.C. § 535(l)(1) (defining a qualified NCE television station for purposes of must carry as including certain TV translator stations). *See also In Re Carriage of Digital Television Broad. Signals Amendments to Part 76 of Commission’s Rules*, CS Docket No. 98-120 et al, First Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 2598, 2601 (2001); *Implementation of the Cable Television Consumer Protection and Competition Act, Broadcast Signal Carriage Issues*, MM Docket No. 92-259 et al., Report and Order, 8 FCC Rcd 2965 (1993); 47 U.S.C. § 573 (extending carriage rules to open video systems (OVS)).

<sup>177</sup> A station’s local market for this purpose is its “designated market area,” or DMA, as defined by The Nielsen Company. 47 CFR §§ 76.55(e)(2) (cable), 76.66(e)(2) (DBS).

<sup>178</sup> *See* 47 U.S.C. § 338(a)(1) (“Each satellite carrier providing ... secondary transmissions to subscribers located within the local market of a television broadcast station of a primary transmission made by that station shall carry upon request the signals of all other television broadcast stations located within that local market.”). This type of carriage is commonly known as “carry one, carry all.” Carry one, carry all refers to the fact that DBS providers are not required to carry any local broadcast stations in a market, but must carry all stations with carriage rights upon request if any local station is carried (with certain narrow exceptions). The DBS must carry/retransmission consent regime otherwise functions in a manner very similar to the cable regime. *But see* 47 U.S.C. § 338(a)(3) (“No low power station ... shall be entitled to insist on carriage under this section [on DBS operators].”).

<sup>179</sup> 47 U.S.C. § 534(b)(10).

<sup>180</sup> 47 U.S.C. § 325(b)(1) (“No cable system or other multichannel video programming distributor shall retransmit the signal of a broadcasting station, or any part thereof, except . . . with the express authority of the originating station.”). The Act requires broadcasters and MVPDs to negotiate for retransmission consent in good faith. *See* 47 U.S.C. § 325(b)(3)(C)(ii)-(iii); 47 CFR § 76.65.

<sup>181</sup> Federal Communications Commission, *Retransmission Consent*, <https://www.fcc.gov/media/policy/retransmission-consent> (last visited July 31, 2025) (“money or other consideration is generally exchanged between the parties in these private negotiations”).

<sup>182</sup> 47 U.S.C. § 325(b)(1)(a).

<sup>183</sup> 47 U.S.C. § 535(a) (“In addition to the carriage requirements set forth in section 614, each cable operator of a cable system shall carry the signals of qualified noncommercial educational television stations in accordance with the provisions of this section.”); 47 CFR § 76.56(a)(1) (explaining that, subject to certain conditions, cable operators are required to carry every qualified noncommercial educational station “requesting carriage.”). While an NCE station does not have retransmission consent rights (and thus cannot withhold its signal from being carried by an MVPD), an NCE station is free to negotiate with MVPDs for voluntary carriage. *See Carriage of Digital Television Broadcast Signals; Amendments to Part 76 of the Commission’s Rules and Implementation of the Satellite Home Viewer Improvement Act of 1999*, CS Docket No. 98-120, First Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 2598, 2613, para. 36 (2001).

**a. Mandatory Carriage of Next Gen TV Stations**

46. *Mandatory Carriage.* We seek comment on whether we should allow stations to assert mandatory carriage rights for their 3.0 signals (instead of their 1.0 signals), in light of our proposals to eliminate the simulcasting requirement and the substantially similar rule for voluntary simulcasting. When adopting the Next Gen TV carriage rules in 2017, the Commission found that “mandating any MVPD carriage of the 3.0 signal at [that] time would be antithetical to a voluntary and market-driven 3.0 deployment for all stakeholders and would not advance the interests under the must carry regime.”<sup>184</sup> The Commission noted that “until there is widespread adoption of 3.0 technology by OTA viewers, mandatory carriage of 3.0 signals would not serve the goals of promoting OTA broadcasting.”<sup>185</sup> The Commission also observed that allowing a station to demand mandatory carriage of its 3.0 signal would impose significant costs on MVPDs and found that “it would not be reasonable to interpret the Act in a manner that would compel MVPDs to incur these added costs.”<sup>186</sup> Does this reasoning still apply? How, if at all, has the market changed with respect to 3.0 viewership and MVPD carriage of 3.0 signals? What would be the likely consequences of allowing mandatory carriage rights for 3.0 signals at this time? If the Commission took no action at this time, meaning 3.0 signals continue to have no carriage rights, would this deter a significant number of stations from completing their transition at this stage? We note that NCTA and ATVA contend that affording mandatory carriage to 3.0 signals would be unconstitutional.<sup>187</sup> We seek comment on these points.

47. *3.0-Only Stations Providing a 1.0 Direct Feed.* We also seek specific comment on whether we should, as an interim approach, afford mandatory carriage rights to a 3.0-only station only if it agrees to provide a 1.0 version of its signal feed to MVPDs through a direct connection. We recognize that the tentative conclusions in Section II.A, if adopted, would likely result in some stations choosing to flash-cut to 3.0-only service or cease 1.0 simulcasting, while others in a market continue to broadcast in 1.0. Thus, if we do not generally afford mandatory carriage rights for 3.0 signals, should we nevertheless allow a 3.0-only station to assert must carry by arranging for the direct delivery of its 1.0 feed to an MVPD?<sup>188</sup> The MVPD would thus not be required to engage in its own down-conversion or update its

<sup>184</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 9961-62, para. 67.

<sup>185</sup> *Id.* at 9962, n.184. In *Turner II*, a majority of the Supreme Court recognized that the must carry provisions serve the important and interrelated governmental interests of: (1) “preserving the benefits of free, over-the-air broadcast television,” and (2) promoting “the widespread dissemination of information from a multiplicity of sources.” *Turner Broadcasting Systems, Inc. v. FCC*, 520 U.S. 180, 189-90 (1997) (*Turner II*) (quoting *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 662 (1994)).

<sup>186</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 9962, n.184.

<sup>187</sup> NCTA Comments at 7-8 (arguing that “the must carry statute and rules can no longer be squared with the First Amendment, and extending the must carry rules to ATSC 3.0 signals would make that outcome even more unjustifiable” and “would also violate the Fifth Amendment’s Takings Clause” because “requiring cable operators to dedicate scarce channel capacity for the uncompensated retransmission of third-party content—and to incur additional substantial costs to upgrade their equipment to do so—would have significant economic impacts on regulated cable operators and interfere with their investment-backed expectations.”); ATVA Comments at 23-24 (asserting that “NAB’s proposal to require MVPDs to undertake additional burdens—and almost certainly dedicate even more capacity—for ATSC 3.0 signals also exacerbates existing constitutional problems with the Commission’s must carry rules,” and adding “while the Commission cannot directly offer general must carry relief in the context of this petition, the Commission surely should not double down on unconstitutional rules by requiring carriage of additional, even-more-burdensome signals.”). See also TPA Reply at 1-2 (stating that “the proposal to extend must carry rules to ATSC 3.0 would not only impose significant and unnecessary burdens on cable operators, but would also violate the First Amendment and the Takings Clause of the Fifth Amendment.”).

<sup>188</sup> For example, we could permit such delivery, provided the station delivers its stream to MVPDs through a direct fiber-based IP connection in accordance with SCTE 277 2024. See NCTA Comments at 10 (indicating that “[d]elivery of ATSC 3.0 signals through a direct IP-based connection may also help lessen the costly network

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equipment to receive and redistribute the 3.0 signal itself, but would instead carry the 1.0 version provided by the broadcaster.<sup>189</sup> What are the costs associated with such delivery? Are all MVPDs capable of accepting delivery of a broadcast signal through a direct connection?<sup>190</sup> Would the costs of such alternate delivery of the signal still deter must carry stations from flash-cutting or terminating 1.0 simulcasting? We seek comment on these questions.

**b. Technical Challenges and Costs**

48. We seek comment on the technical challenges that MVPDs face in carrying 3.0 signals, either by down-converting them or passing them through directly to subscribers. The FOTVI Report observed that “individual MVPDs may differ significantly in how digital television is [currently] carried on their systems,” and therefore “technical challenges and limitations may vary across the MVPD ecosystem.”<sup>191</sup> Accordingly, we seek comment from different types of MVPDs, including smaller and rural MVPD systems, about the different challenges they may face. NCTA states that “mandatory carriage of ATSC 3.0 signals will present formidable technical challenges for MVPDs...” and that rule changes are needed “before any stations are required to transition to ATSC 3.0 or any MVPD is required to carry such signals.”<sup>192</sup> Below, we consider many of the issues raised by MVPDs in this regard, and seek comment on these and all related matters.

49. *Technical Standards Regarding Carriage of 3.0 Signals.* We seek comment on the relevant technical standards and recommended practices regarding MVPD carriage of 3.0 signals. Should the Commission require compliance with any of these standards or practices? What technical issues remain unresolved in the existing standards? What is the status of ongoing standards work related to these open technical issues and what is the timetable for completing this work? ATSC has issued a recommended practice (RP), ATSC A/370: “Conversion of ATSC 3.0 Services for Redistribution,” which “provides recommended practices for the conversion of ATSC 3.0 services for Redistribution into ATSC 1.0 and other legacy services.”<sup>193</sup> This RP indicates that the conversion will be performed at the broadcaster’s facility in some situations,<sup>194</sup> and at the MVPD’s facility in others.<sup>195</sup> Is there an adequate supply of commercially available equipment that can perform these conversions?<sup>196</sup> The ATSC A/370 RP indicates that “[a] TV station may provide an ATSC 1.0 signal via direct feed even when its ATSC 1.0

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changes MVPDs must make to accommodate ATSC 3.0.”). See *infra* paras. 51-53 (discussing the requirement to deliver a good quality signal).

<sup>189</sup> See *infra* para. 56 (discussing MVPD costs).

<sup>190</sup> To the extent it is not technically feasible for certain smaller MVPDs to accept alternate delivery, the Commission could consider a request for exemption.

<sup>191</sup> FOTVI Report at 21.

<sup>192</sup> NCTA Comments at 9.

<sup>193</sup> ATSC RP A/370: “Conversion of ATSC 3.0 Services for Redistribution” (July 17, 2025) at 1 (*ATSC RP A/370*), <https://www.atsc.org/atsc-documents/type/3-0-recommended-practices/>. We note, however, that DIRECTV refers to this document as a “candidate” standard, and we seek clarification on this point. Letter from Michael Nilsson, Counsel to the American Television Alliance, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 16-142, at 1-2 (filed Aug. 12, 2025) (DIRECTV Aug. 12 *Ex Parte* Letter).

<sup>194</sup> *ATSC RP A/370* at 2 (Use Case 1-1 – station provides direct feed to MVPD as an ATSC 1.0 MPEG-2/TS signal).

<sup>195</sup> *Id.* at 2 (Use Case 1-2 – station provides direct feed to MVPD as an ATSC 3.0 HEVC/IP signal; Use Case 1-3 – MVPD receives 3.0 signal OTA).

<sup>196</sup> For example, DIRECTV indicates that there are ATSC 3.0 receivers compatible with DIRECTV’s system, but that such receivers are in “very limited supply” and “cost roughly \$8,000 per feed (i.e., primary and multicast feeds).” DIRECTV Aug. 12 *Ex Parte* Letter at 2.

over-the-air service has been discontinued.”<sup>197</sup> Is this something that all stations will be able to do? If not, why not?

50. We also understand that ATSC is still working on recommended practices for MVPDs to receive 3.0 signals for direct redistribution. What is the status of this work specifically and of the coordination efforts between Next Gen TV broadcasters and MVPDs more generally?<sup>198</sup> Should the Commission wait to adopt rules in this area until ATSC’s work on recommended practices for MVPDs to receive 3.0 signals for direct redistribution is concluded and publicly available? How do broadcasters and MVPDs anticipate handling voluntary carriage of 3.0 signals, if at all, in the absence of such recommended practices? Is there an adequate supply of commercially available head-end and set-top equipment that would allow MVPDs to receive 3.0 signals OTA and pass them directly through to subscribers rather than down-converting them? NCTA states that other standards work is also needed.<sup>199</sup> We seek comment on these points.

51. *Good Quality Signal.* We seek comment on how to define a “good quality signal” for purposes of ATSC 3.0 carriage. The Commission’s 1.0 rules provide that a station asserting must carry rights must deliver a good quality signal—defined for ATSC 1.0 carriage as a signal strength level of -61 dBm—to the principal headend of a cable system or the local receive facility (LRF) of a satellite carrier.<sup>200</sup> Broadcasters are required to bear the costs of delivering a good quality signal to MVPDs.<sup>201</sup> The 1.0 rules, however, do not apply to the costs on MVPDs of receiving and redistributing the signal to their subscribers, and so MVPDs generally assume these costs.<sup>202</sup>

52. NAB’s Petition explains that the fixed signal level for determining whether a signal is adequate to be eligible for must carry was derived using certain planning factors for DTV reception, which included, among other things, a carrier-to-noise (C/N) ratio of 15.2 decibels (dB).<sup>203</sup> In contrast, ATSC 3.0 signals can be provided using a variety of modulation and coding (modcod) combinations, which can require a C/N ratio that is either higher or lower than required in ATSC 1.0. NAB states that “while most broadcasters are currently providing their primary video streams using a modcod that meets or exceeds the robustness of an ATSC 1.0 signal, the Commission may want to modify the definition of good quality signal to require a higher signal level when necessitated by the choice of modcod.”<sup>204</sup> We seek comment on whether it is necessary to take the choice of modcod into account for purposes of defining a good quality signal and, if so, how to do so. We note that while the Next Gen TV rules do not expressly address good quality signal, they do require stations broadcasting an ATSC 3.0 signal (using the Next Gen TV transmission standard in §73.682(f)) to “transmit at least one free over the air video

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<sup>197</sup> *Id.*

<sup>198</sup> We understand that ATSC has tasked a Working Group, called the “TG3/S37 Specialist Group,” with developing standards for MVPD distribution of ATSC 3.0 signals, including over fiber. We note that DIRECTV has indicated that “there is no longer any MVPD representation in TG3” and attributes this to “what MVPDs view as the domineering and uncollaborative behavior of the broadcast representatives in the Working Group.” DIRECTV Aug. 12 *Ex Parte* Letter at 1.

<sup>199</sup> NCTA Comments at 10-11 (“[U]pdating the good quality signal rules for ATSC 3.0 will require additional ATSC standards work. ATSC has yet to complete the work referenced in the FOTVI Report on recommended practices for redistribution of ATSC 3.0 signals. Work is also needed to develop a Recommended Practice for 3.0 transport streams and to add standards for IP-based delivery of broadcast feeds to MVPDs.”); *see also* FOTVI Report at 24.

<sup>200</sup> 47 CFR §§ 76.55(c)(3); 76.66(g). *See also* 47 U.S.C. §§ 534(b)(10)(A), (h)(1)(B)(iii); 338(b)(1), (e).

<sup>201</sup> *See* 47 CFR §§ 76.60(a), 76.66(g).

<sup>202</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 9967, n.210 (adding that such costs are generally viewed as the costs of doing business as MVPDs.).

<sup>203</sup> NAB Petition at 21-22.

<sup>204</sup> *Id.* at 22.

programming stream on that signal that requires at most the signal threshold of a comparable received DTV signal.”<sup>205</sup> Thus, by rule, the 3.0 primary stream must be at least as robust as the 1.0 primary stream. To what extent does this address the concern described by NAB? We seek comment on these points.

53. NCTA and ATVA contend that the current good quality signal definition (−61dBm) “is insufficient to enable redistribution of the primary ATSC 3.0 video channel by MVPDs.”<sup>206</sup> They argue that determining whether a 3.0 signal is of good quality must entail consideration of a wide range of additional factors.<sup>207</sup> We seek comment on these concerns and whether they relate to the purpose of the rule, which is to ensure that the station provides a strong/robust enough signal to reach the location of the MVPD’s headend or LRF.<sup>208</sup> We note that the existing rule does not relate to reception and redistribution of the signal, both of which are currently the MVPD’s responsibility.<sup>209</sup> NCTA also argues that the good quality signal rules “should require that broadcasters deliver their ATSC 3.0 feed to MVPDs through a direct fiber-based IP connection in accordance with SCTE 277 2024.”<sup>210</sup> Direct delivery, however, such as via fiber, is only required under our current rules if a station cannot deliver a good quality signal to the MVPD over the air. We seek comment on these proposals and issues.

54. *Material Degradation.* We seek comment on what constitutes “material degradation” for purposes of 3.0 carriage. The Communications Act requires that cable operators carry broadcast signals “without material degradation.”<sup>211</sup> The Act also directs the Commission to “adopt carriage standards to ensure that, to the extent technically feasible, the quality of signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal.”<sup>212</sup> In the context of the carriage of digital signals, the Commission has interpreted these requirements: (i) to prohibit cable operators from discriminating in their carriage between broadcast and non-broadcast signals; and (ii) to require cable operators to carry HD broadcast signals to their subscribers in HD.<sup>213</sup> NCTA states that ATSC 3.0 features “may exceed the

<sup>205</sup> 47 CFR § 73.624(b)(3).

<sup>206</sup> NCTA Comments at 9; ATVA Comments at 19.

<sup>207</sup> NCTA Comments at 9; ATVA Comments at 19 (identifying “compliant IP encapsulation,” the choice of video transport protocol, the choice of video compression standard or coding standard, the choice of audio compression standard or coding standard, and modcod as factors to be considered). NCTA further states that “the good quality signal rules should also require broadcasters to provide their primary over-the-air signal in HD.” NCTA Comments at 9. We note that the good quality signal rule relates to signal strength, not picture quality, and therefore we do not consider this proposal in this context.

<sup>208</sup> See *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, MM Docket Nos. 92–259, 90–4, 92–2958, Report and Order FCC Rcd. 2965, 2990–91, paras. 100–104 (1993).

<sup>209</sup> See *First Next Gen TV Report and Order*, 32 FCC Rcd at 9967, n.210.

<sup>210</sup> See NCTA Comments at 10 (indicating that “[d]elivery of ATSC 3.0 signals through a direct IP-based connection may also help lessen the costly network changes MVPDs must make to accommodate ATSC 3.0.”).

<sup>211</sup> See 47 U.S.C. §§ 534(b)(4)(A), 535(g)(2). See also 47 CFR §§ 76.62(b)–(d), (h); 76.66(k).

<sup>212</sup> See 47 U.S.C. § 534(b)(4)(A) (“The signals of local commercial television stations that a cable operator carries shall be carried without material degradation. The Commission shall adopt carriage standards to ensure that, to the extent technically feasible, the quality of signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal.”) and § 535(g)(2) (“A cable operator shall provide each qualified local noncommercial educational television station whose signal is carried in accordance with this section with bandwidth and technical capacity equivalent to that provided to commercial television broadcast stations carried on the cable system and shall carry the signal of each qualified local noncommercial educational television station without material degradation.”).

<sup>213</sup> See *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission’s Rules*, CS

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capabilities and capacity of MVPDs' digital video systems,"<sup>214</sup> and ATVA contends that, at this time, many carriers would likely be unable to pass through the improved broadcast features (such as higher-quality video and audio) to their subscribers.<sup>215</sup> For example, NCTA states that in some "instances, the transcoding process will necessarily down-convert [3.0] audio and video to encoding protocols and formats supported by the set-top [boxes]."<sup>216</sup> NCTA argues that such down-conversion should not be considered "material degradation" under the statute.<sup>217</sup> We seek comment on this issue.

55. *Program-Related Material.* We seek comment on what constitutes "program-related material" for purposes of 3.0 carriage. The Act requires a cable operator to carry in its entirety, on the cable system of that operator, the primary video, accompanying audio, and line 21 closed caption transmission of each of the local commercial television stations carried on the cable system and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers.<sup>218</sup> The Commission's rules for satellite carriage include the same program-related requirements as apply to cable.<sup>219</sup> The Commission has found that the factors enumerated in *WGN*<sup>220</sup>

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Docket No. 98-120, Third Report and Order and Third Further Notice of Proposed Rulemaking, 22 FCC Rcd 21064, 21067, paras. 7-8 (2007). Small cable systems that are not offering any programming in HD are exempt from this HD carriage requirement. *See Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, CS Docket No. 98-120, Sixth Report and Order, 30 FCC Rcd 6653, 6655-56, para. 4 (2015) (defining "small" cable systems "as those: (i) serving 1,500 or fewer subscribers, and not affiliated with a cable operator serving more than 2 percent of all MVPD subscribers, or (ii) having an activated channel capacity of 552 MHz or less.").

<sup>214</sup> NCTA Comments at 11.

<sup>215</sup> ATVA Comments at 14. ATVA explains that "MVPD systems do not simply pass through directly the signal received from broadcasters—nor would they do so with ATSC 3.0. With respect to video quality, for example, many MVPD set-top boxes do not support 4K resolution and other ATSC 3.0 formats, such as High Efficiency Video Coding ('HEVC'), Scalable High Efficiency Video Coding ('SHVC'), High-Dynamic Range ('HDR'), and Wide Color Gamut ('WCG'). MVPDs do not support SHVC, and only some MVPD set-top boxes support 4K, HDR, or WCG. To the extent that a broadcaster used an ATSC 3.0 signal to deliver video in those formats, MVPDs would need to down convert the signal to an encoding and resolution format supported by the MVPDs' various set-top boxes. Once the signal was down-converted, however, consumers viewing broadcast television channels over their MVPD subscriptions would not receive broadcast quality improvements that broadcasters may offer using ATSC 3.0 signals." *Id.*

<sup>216</sup> NCTA Comments at 11.

<sup>217</sup> *Id.*

<sup>218</sup> *See* 47 U.S.C. §§ 534(b)(3)(A), 535(g)(1). *See also* 47 CFR §§ 76.62(e), (f). Retransmission of other material in the vertical blanking interval or other nonprogram-related material (including teletext and other subscription and advertiser-supported information services) is at the discretion of the cable operator. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends. *Id.* Section 615(g)(1) provides the same requirements for NCE stations, except that such operators also must carry program-related material contained in the VBI or on subcarriers "that may be necessary for receipt of programming by handicapped persons or for educational or language purposes." 47 U.S.C. § 535(g)(1).

<sup>219</sup> 47 CFR § 76.66(j). *See* 47 U.S.C. § 338(j) (directing the Commission to "include requirements on satellite carriers that are comparable to the requirements on cable operators under sections 534(b)(3) and (4) and 535(g)(1) and (2)."). *See also Implementation of the Satellite Home Viewer Improvement Act of 1999: Broadcast Signal Carriage Issues*, Report and Order, 16 FCC Rcd 1918, 1962-63 paras. 104, 105 (2000).

<sup>220</sup> *WGN Continental Broadcasting, Co. v. United Video Inc.*, 693 F.2d 622 (7th Cir. 1982). The *WGN* case addressed the extent to which the copyright on a television program also included program material in the VBI of the signal and set out three factors for making a copyright determination. First, the broadcaster must intend for the information in the VBI to be seen by the same viewers who are watching the video signal. *Id.* at 626. Second, the VBI information must be available during the same interval of time as the video signal. *Id.* Third, the VBI information

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provide useful guidance for what constitutes program-related material.<sup>221</sup> Some examples of program-related material include (but are not limited to) closed captioning, video description, parental control information (“V-chip”), and Nielsen ratings information (“SID codes”).<sup>222</sup> With regard to the “technical feasibility” of the carriage of program-related material in the VBI or on subcarriers, the Commission has stated that such carriage would be considered “technically feasible” if “only nominal costs, additions or changes of equipment are necessary.”<sup>223</sup> NCTA contends that any must carry obligations for 3.0 broadcasts should be “limited to the primary video and audio stream and material that is intimately connected to the primary video service.”<sup>224</sup> NCTA asserts that “[n]ew data transport mechanisms enabled by ATSC 3.0 standards—including mechanisms within the audio and video streams and watermarking—should not be considered program-related material, consistent with the Commission’s findings for multicast streams.”<sup>225</sup> NCTA further asserts that “interactive elements embedded within the 3.0 signal, including interactive ads and other features that require a return path, are not program-related.”<sup>226</sup> Alternatively, NCTA states that “it should not be considered ‘technically feasible’ to carry such material.”<sup>227</sup> Broadcasters, in the FOTVI Report, have argued that watermarks and other advanced features should be considered program related and should generally be passed through to subscribers.<sup>228</sup>

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must be an integral part of the program. *Id.* The court in *WGN* held that if the information in the VBI is intended to be seen by the viewers who are watching the video signal, during the same interval of time as the video signal, and as an integral part of the program on the video signal, then the VBI and the video signal are one copyrighted expression and must both be carried if one is to be carried. *Id.*

<sup>221</sup> See *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, Report and Order, 8 FCC Rcd 2965, 2986, para. 81 (1993) (*1993 Cable Must Carry Order* (declining to further define “program related,” apart from the *WGN* analysis, and noting that carriage of information in the VBI was rapidly evolving). Closed captioning information and television ratings data are some examples of the material carried in the vertical blanking interval. *Id.* The Commission subsequently clarified that the factors set forth in *WGN* do not necessarily form the exclusive basis for determining program-relatedness. *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, Memorandum Opinion and Order, 9 FCC Rcd 6723, para. 50 (1994). For example, on reconsideration, the Commission found that Source Identification Codes (“SID codes”) are program-related material under the statute, even though they may not precisely meet each factor in *WGN*, “because they constitute information intrinsically related to the particular program received by the viewer.” *Id.*

<sup>222</sup> See, e.g., *Local Broadcast Signal Carriage Issues and Retransmission Consent Issues*, CS Docket No. 00-96, Second Report and Order, Memorandum Opinion and Order, and Second Further Notice of Proposed Rulemaking, 23 FCC Rcd 5351, para. 17 (2008) (concluding over-the-air digital services, such as closed captioning information and V-chip information, are program-related material).

<sup>223</sup> See *1993 Cable Must Carry Order*, 8 FCC Rcd at 2986, para. 82.

<sup>224</sup> NCTA Comments at 12 (“Historically, this has included things like closed captioning, video description, parental control information, and Nielsen ratings information, and this should remain the case for ATSC 3.0.”).

<sup>225</sup> *Id.* at 12. NCTA argues that MVPDs should be allowed to remove watermarks from 3.0 streams. *Id.* at 13. See also FOTVI Report at 27 (“MVPD participants contend that the ability for MVPDs to remove watermarks will protect MVPD subscribers while maintaining broadcasters’ ability to deploy these advanced features over ATSC 3.0.”). Broadcasters “disagree that the potential for consumer confusion should result in rules that permit MVPDs to strip watermarks out of broadcast signals.” FOTVI Report at 28 (“While watermarks are not necessary to launch these features over-the-air to an ATSC 3.0 television set, they are necessary to deploy these features via an MVPD set-top box that is not ATSC 3.0 compatible.”).

<sup>226</sup> NCTA Comments at 12.

<sup>227</sup> *Id.*

<sup>228</sup> FOTVI Report at 28 (“ATSC 3.0 watermarks embed data that enable critical features of ATSC 3.0, such as targeted emergency alerts, accessibility enhancements, interactivity, and other consumer-friendly features including the ability to restart programming.”).

We seek comment on this issue, and on whether there are specific 3.0 features that should or should not be considered program-related.

56. *MVPD Costs.* We seek comment about the financial costs associated with MVPD carriage of 3.0 signals.<sup>229</sup> ATSC 3.0 is not backwards compatible with existing MVPD digital video systems.<sup>230</sup> ATVA and NCTA have indicated that MVPDs would need to purchase and install new transcoders, receivers, demultiplexers, and demodulators in order to receive and redistribute 3.0 signals.<sup>231</sup> MVPDs also would have to incur other expenses based on whether they receive ATSC 3.0 signals over the air or via fiber.<sup>232</sup> For example, MVPDs may need to conduct new engineering studies and/or upgrade tower equipment to receive OTA ATSC 3.0 signals.<sup>233</sup> We seek comment on these and related questions of cost. We seek comment on the amount of such costs and who would/should bear such costs. We seek comment on the impact of any costs on consumers. We seek comment on the benefits of ATSC 3.0 service to MVPDs, particularly small MVPDs, and MVPD consumers and on balancing the costs to such entities with any benefits, including those to 3.0 OTA broadcasters and viewers.

57. In addition to the specific issues noted above, we seek comment generally on any other matters related to MVPD carriage of 3.0 signals, including but not limited to matters raised in the existing record such as MVPD capacity constraints.<sup>234</sup>

### C. Other Issues

58. Finally, we seek comment on a number of other outstanding ATSC 3.0 issues. As with the matters discussed above, we have previously received comments on many of these issues in the context of NAB's proposal for a mandatory transition. Now, however, we seek to consider these issues in light of our proposal to eliminate the simulcasting requirement and our goal to eliminate regulatory barriers to the adoption of ATSC 3.0 technology and services. We therefore invite comment on the issues below.

59. *Sunset of 1.0 Service.* We seek comment on whether there should be an eventual sunset of 1.0 broadcasting and if so whether the sunset of 1.0 should be tied to a date certain or specific market conditions. If the former, we seek comment on whether that date should be phased for different markets and stations, similar to the approach proposed in the Petition, or a single nation-wide date, and what those dates should be. If the latter, what conditions should apply? For example, should the sunset be tied to broadcaster deployment, the availability of low-cost converter devices, consumer uptake, or some other factor or combination of factors, including factors not related to market conditions?<sup>235</sup>

<sup>229</sup> We request that commenters be as specific and detailed as possible, and indicate the basis for any cost estimates. Cost estimates for each signal required to be carried would be instructive.

<sup>230</sup> FOTVI Report at 21.

<sup>231</sup> ATVA Comments at 11; NCTA Comments at 5. *See also* ATVA Comments at 12 (noting that costs for ATSC 3.0 equipment are driven by patent royalties and DRM encryption licensing, and that "[t]o update DRM license keys, MVPDs must have equipment that is connected to the internet. This presents risks regarding hacking and other security threats, in addition to the possibility that a failure to update a key would cause a loss of service.").

<sup>232</sup> ATVA Comments at 11.

<sup>233</sup> *Id.*

<sup>234</sup> *See, e.g.,* NCTA Comments at 14; ATVA Comments at 12-14.

<sup>235</sup> *See, e.g.,* Consumer Groups Comments at 8 ("[A]ny transition must be tethered to demonstrable, transparent benchmarks of consumer readiness and public interest protection. These benchmarks should include: (1) National and market-specific penetration rates of ATSC 3.0-compatible devices, disaggregated by income, geography, and age demographics; (2) Availability and affordability of standalone ATSC 3.0 receivers and converter boxes (or a subsidy program), including compatibility across operating systems and platforms; (3) Confirmed redundancy of emergency alerting functionality across ATSC 3.0 and ATSC 1.0 pathways; (4) Independent verification of signal

(continued....)

60. *A/322 Compliance Sunset.* We seek comment on whether and how to address the scheduled July 17, 2027, sunset of the requirement that Next Gen TV broadcasters' primary video programming stream comply with the ATSC A/322 standard.<sup>236</sup> In 2023, the Commission found that "the A/322 requirement remains essential at this time for protecting both innovators and investors in the 3.0 space, allowing stakeholders to develop and purchase equipment with confidence."<sup>237</sup> We note that, at that time, both equipment manufacturers and broadcasters agreed that the rule should be retained.<sup>238</sup> What would be the impact on consumers, television receiver manufacturers, and MVPDs if this requirement were to sunset? If we do not require compliance with the ATSC A/322 standard, how can we ensure that 3.0 TV sets and other 3.0 TV equipment will be able to receive all 3.0 broadcast signals? Have marketplace developments since 2023 reduced or eliminated the need for mandatory compliance with the ATSC A/322 standard? What marketplace conditions are relevant to this question? Should the sunset date be extended or eliminated? If the date should be extended what sunset date should apply? Should it be a date certain or tied to specific market condition? If the latter, what conditions should apply?

61. *Updating Standards Incorporated in Rules.* We seek comment on whether to update our rules to reflect the most recent versions of the A/321 and A/322 standards, as proposed by NAB.<sup>239</sup> Based on the ATSC website, it appears the most recent versions of A/321 and A/322 were issued by ATSC in July 2025.<sup>240</sup> What, if any, substantive changes have been made to these standards since we mandated their use in 2017? Are any subsequent versions and substantive updates planned, and if so, what is the timeframe? We seek comment on these points.

62. *Options to Offset Consumer Costs.* We seek comment on the availability of low-cost converter devices and on options for potential funding sources to offset costs for consumers.<sup>241</sup> Is congressional action needed to establish public funding, such as when Congress established the DTV coupon program?<sup>242</sup> Beyond consumer information efforts,<sup>243</sup> what, if any consumer support for a 3.0 transition is available from broadcast industry stakeholders? What are other potential sources of funding

(Continued from previous page) —————  
robustness and geographical coverage for all ATSC 3.0 stations seeking to end simulcasting; (5) Comprehensive public education campaigns conducted at the national and local levels, with sufficient lead time to ensure informed consumer decisions.").

<sup>236</sup> See *supra* para. 6.

<sup>237</sup> *Third Report and Order and Fourth FNPRM*, 38 FCC Rcd at 6440-41, paras. 46-47.

<sup>238</sup> *Id.*

<sup>239</sup> Petition at 17. See 47 CFR § 73.682(f)(2)(i)-(ii); 73.8000(a)(5)-(6).

<sup>240</sup> See ATSC Standard A/321, "System Discovery and Signaling" (Jul. 17, 2025), <https://www.atsc.org/wp-content/uploads/2025/08/A321-2025-07-System-Discovery-and-Signaling.pdf>; ATSC Standard A/322, "Physical Layer Protocol" (Jul. 17, 2025), <https://www.atsc.org/wp-content/uploads/2025/09/A322-2025-07-Physical-Layer-Protocol.pdf>.

<sup>241</sup> See, e.g., Consumer Groups Comments at 9 (suggesting "[a] federally funded voucher or rebate program for low-income households and institutions."); TDIforAccess, Inc. Comments at 6 ("urg[ing] the Commission, and the broadcast industry, to develop some sort of funding for low-income disabled users so they are not left behind after any hard-date transition."); PTV Comments at 4 ("Funding to help audiences transition to ATSC 3.0 might, for example, take the form of a coupon program to help consumers purchase ATSC 3.0 converter devices.").

<sup>242</sup> See Digital Television Transition and Public Safety Act of 2005 (Part of Public Law No: 109-171 (2006)), which created a program in NTIA and also funded the program to provide households with up to two \$40 coupons to be used toward the purchase of digital-to-analog converter boxes.

<sup>243</sup> See, e.g., <https://www.watchnextgentv.com> (last accessed Sept. 29, 2025) (providing information on 3.0 capabilities, markets, and consumer equipment).



for consumer costs? Do other stakeholders, such as small MVPDs or broadcasters, need access to the funds as has been made in other transitions,<sup>244</sup> and if so for what purposes?

63. *Test Market(s)*. We seek comment on whether the Commission should actively encourage or require coordinated “test markets” for technical testing and to confirm viewer and MVPD readiness. We seek comment on which market(s) are the best options for such tests and why. How should these tests be implemented, what information should be gathered, and what should be the timeline for any test(s)?

64. *Accessibility*. We seek comment on how, specifically, the industry will ensure that current video accessibility requirements continue to be met in the context of ATSC 3.0 service. In the *First Next Gen TV Report and Order*, the Commission emphasized that “broadcasters that choose to deploy ATSC 3.0 are expected to comply fully with all relevant Part 79 requirements.”<sup>245</sup> Accessibility Groups, however, have urged the Commission not to “just assume that current accessibility rules ‘need not be modified’ in the transition to NextGen TV.”<sup>246</sup> They contend, “[s]imply assuming that existing ATSC 1.0 rules will carry over without issue ignores the real-world challenges faced by consumers who rely on closed captioning and other access features.”<sup>247</sup> We seek comment on what, if any, specific changes to existing rules would be needed to clarify that current video accessibility requirements apply with respect to 3.0. Additionally, we seek comment on whether we should require the provision of advanced accessibility features (e.g., multiple audio streams, customizable closed captioning placement, speed, font colors, styles, and weights, and sign language integration) by 3.0 broadcasters and device manufacturers, whether MVPDs should be required to pass through such features, and on the legal authority that would support such requirements.<sup>248</sup> What are the costs and benefits associated with such requirements?

<sup>244</sup> See, e.g., 47 U.S.C. § 1452(b), (d), (j)-(l) (establishing a reimbursement fund for certain eligible broadcast stations (full power, Class A, LPTV, TV translators and FM) and MVPDs for costs incurred as a result of the incentive auction and repack); The Digital Television Transition and Public Safety Act of 2005, Pub. L. No. 109–171, 120 Stat. 4, 26 (Low Power Television and Translator Upgrade Program, § 3009) (2006) (establishing a fund for eligible low-power television stations to receive reimbursement for equipment to upgrade from analog to digital operations in eligible rural communities).

<sup>245</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 9972, para. 81. See generally 47 CFR Part 79. See also Comments of Bridge Multimedia, Corp., American Council of the Blind (ACB), and American Foundation for the Blind (AFB) (*Bridge et al.*) at 2 (stating the Commission should “[e]nsure that viewers experience at least the same level of accessibility and that covered entities comply with or exceed the Commission’s video programming accessibility rules once the transition has occurred.”).

<sup>246</sup> Comments of TDIforAccess, Inc., American Foundation for the Blind, Communication Service for the Deaf, Deaf Equality, Hearing Loss Association of America, National Association for the Deaf, Perkins School for the Blind (*TDIforAccess et al.*) at 2.

<sup>247</sup> *Id.*

<sup>248</sup> See, e.g., *Bridge et al.* Comments at 2 (asserting that the Commission should “[ex]plore opportunities for rulemaking that strengthen accessibility within the Commission’s authority and align with the recommendations outlined in [the FOTVI Report]. These may include establishing minimum audio quality standards for audio description and ensuring the availability of multiple audio tracks, so that audio description does not conflict with other language options.”); Consumer Groups Comments at 11 (“ATSC 3.0 supports a range of accessibility enhancements that go beyond what was possible under ATSC 1.0, including customizable captions, multiple audio tracks, support for screen readers, and synthesized voice guidance. These tools could greatly expand access to news, entertainment, and civic information for Americans with hearing, vision, cognitive, or other impairments.”); *TDIforAccess et al.* Comments at 1 (“Next Gen TV should deliver more captioning options for consumers in addition to the options consumers have today, such as abbreviated captions and multi-language captions, as well as enhanced access to American Sign Language (ASL).... Next Gen TV will also offer dialog enhancement and audio descriptive services.”).

65. *Emergency Alerting.* In the *First Next Gen TV Report and Order*, the Commission required Next Gen TV broadcasters to comply with all of its broadcast rules and specifically required compliance with the Emergency Alert System (EAS) rules.<sup>249</sup> Nothing in this *FNPRM* should be interpreted as reopening that issue. We seek comment on any actions or information that emergency alerting stakeholders should be aware of to ensure EAS messages continue to be made available to all broadcast audiences, both during and after the transition. Could our proposal to allow broadcasters to choose how to divide their programming between 1.0 and 3.0 signals threaten to deprive viewers of access to EAS? Could implementation of the 3.0 broadcast security features, such as encryption and signal signing, diminish the availability of emergency alerts by introducing a risk of blocking valid alerts, including EAS alerts?<sup>250</sup> If so, should there be differences in how EAS and advanced emergency alert signaling are treated, including by MVPDs? What obstacles exist to the widespread adoption of advancing emergency alerting functionality, and what steps can the Commission take to address those obstacles?<sup>251</sup>

66. *Fundamental Use of Broadcast Spectrum.* We seek comment on whether to require Next Gen TV broadcasters to dedicate a specific portion of their licensed spectrum to broadcasting free over-the-air video programming after they transition to 3.0. The Commission has said that it expects the “fundamental use” of television broadcast spectrum to continue to be the provision of free, over-the-air television service, but has not yet addressed the question of how much of its capacity a Next Gen TV station must ultimately devote to free, OTA television service after the ATSC 3.0 transition.<sup>252</sup> Under the current rules, 1.0 broadcasters are required only to “transmit at least one free over the air video program signal at no direct charge to viewers.”<sup>253</sup> Several commenters, however, observed that ATSC 3.0 has much greater spectral capacity and expressed concerns that broadcasters might derogate their free OTA TV service in favor of datacasting and other non-broadcast services.<sup>254</sup> Weigel urged the Commission to ensure that broadcasters use their increased capacity to improve the free OTA TV service and

<sup>249</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 9971, para. 80. See 47 CFR §§ 11.1 *et seq.* & 73.1250 (EAS).

<sup>250</sup> See *supra* paras. 34-43 (discussing issues with ATSC 3.0 encryption and signal signing more generally).

<sup>251</sup> See *Modernization of the Nation’s Alerting Systems*, PS Docket No. 25-224, Notice of Proposed Rulemaking, FCC 25-50 (2025) (beginning a reexamination of EAS and Wireless Emergency Alerts (WEA) from the ground up to explore whether fundamental changes could improve these systems).

<sup>252</sup> *Broadcast Internet Order*, 35 FCC Rcd at 14999, n.48; *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, MM Docket No. 87-268, Fifth Report and Order, 12 FCC Rcd 12809, 12820, para. 28 (1997). See also *id.* at 12820, para. 27 (noting the Commission’s “overarching goal” to “promote the success of a free, local television service using digital technology.”).

<sup>253</sup> 47 CFR § 73.624(b). The rule also states that the TV service provided pursuant to the rule “must have a resolution of at least 480i (vertical resolution of 480 lines, interlaced).” *Id.* This rule is also known as the derogation of service standard, as the rule was adopted to implement the Communications Act’s directive for the Commission to “limit the broadcasting of ancillary or supplementary services on designated frequencies so as to avoid derogation of any advanced television services, including high definition television broadcasts, that the Commission may require using such frequencies.” 47 U.S.C. § 336(b)(2). In addition to full power, these standards and rules are also applicable to Class A and LPTV stations. See 47 CFR §§ 73.6026(b), 74.790.

<sup>254</sup> See, e.g., Weigel Comments at 21 (“Weigel believes it would be difficult for the Commission to conclude broadcasting is a “fundamental use” of spectrum when only 3-4 percent of spectral capacity is actually used for broadcasting. Indeed, it is hard to underestimate how big a change this would represent for broadcasting.”); NCTA Comments at 15 (“The Commission should ensure broadcaster use of spectrum serves the public interest and meets statutory requirements.... [T]he Commission has made clear that it ‘expects’ the ‘fundamental use’ of television broadcast spectrum to continue to be the provision of free, over-the-air television service.”); ATVA Aug. 4 *Ex Parte* Letter at 2-3 (observing that “broadcasters could instead devote the lion’s share of spectrum capacity to non-broadcast services” and “[i]f they do so rather than improve their broadcasting services, then pay-TV subscribers would not even theoretically receive any benefits from the costs they would incur.”).

recommended a “[g]uardrail to preserve minimum capacity devoted to broadcasting that does not require the Internet.”<sup>255</sup> ATVA stated that allowing “broadcast spectrum being used overwhelmingly for non-broadcast purposes also raises significant issues related to statutory authority.”<sup>256</sup> In response, broadcasters have offered assurances that any datacasting services provided would be to support and improve its free OTA service and not to supplant it.<sup>257</sup> We seek comment on these points.

67. *Privacy.* We seek comment on whether privacy rules are needed to address broadcaster collection of viewer data. The FOTVI Report “examined whether ATSC 3.0’s new features and capabilities warrant new or different privacy regulations to protect viewers’ information.”<sup>258</sup> According to the FOTVI Report, “[p]articipants agreed that there are no new privacy concerns for viewers who receive ATSC 3.0 exclusively over-the-air without an internet connection, as user data cannot be collected without a return path.”<sup>259</sup> However, it stated that “viewers with an internet connection can take advantage of ATSC 3.0’s interactive and personalized services, which may require the collection of user data to customize content and enhance the viewing experience.”<sup>260</sup> We seek specific comment on whether broadcasters’ collection of viewer data will include the collection of personally identifiable information (PII).<sup>261</sup> We note that the Communications Act places certain requirements on cable and satellite operators with respect to the collection and disclosure of subscribers’ PII.<sup>262</sup> Should broadcasters be subject to MVPD-like privacy rules, or other privacy requirements? Would compliance with privacy requirements be part of a broadcasters’ statutory obligation to serve the public interest, convenience and necessity? Does the Commission have other statutory authority to impose privacy requirements on broadcasters under these circumstances? Would privacy requirements be necessary if broadcasters

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<sup>255</sup> Weigel Comments at 22 (“Broadcasters use 19.3 Mbps to support their broadcasting in ATSC 1.0 today, and that same bandwidth should be reserved for free, over-the-air broadcasting under ATSC 3.0 tomorrow.”).

<sup>256</sup> ATVA Comments at 21.

<sup>257</sup> NAB Reply at 11 (stating that broadcasters “are simply aiming to use their licensed spectrum in a flexible, innovative manner that aligns with the law and the nation’s public interest....Unleashing these kinds of innovative uses offers broadcasters another source of revenue that is essential for broadcasters to be able to continue to invest in valuable programming, including local news, and presents a critical opportunity to address connectivity gaps in rural and underserved communities. . . .”); Gray Aug. 5 *Ex Parte* Letter at 1-2 (“Gray believes that datacasting revenue can help underwrite the expensive costs of producing high quality local journalism and help Gray fulfill its public interest obligations.”).

<sup>258</sup> FOTVI Report at 32.

<sup>259</sup> *Id.*

<sup>260</sup> *Id.* The FOTVI Report provided additional details about the discussion: “Broadcasters noted that the type of data they might collect is already gathered by many other service providers, and to compete effectively, broadcasters require a level playing field with equipment manufacturers and other video service providers. Several participants advocated for parity of rules among broadcasters, other video services, equipment manufacturers, and other entities in the video programming ecosystem. MVPD participants expressed that they generally favor regulatory parity across all video providers, including with regard to privacy protections for consumers. Public interest participants also expressed support for privacy rules that are like existing cable privacy regulations or other video-specific obligations (e.g., VPPA).” *Id.*

<sup>261</sup> *Safeguarding Against and Responding to the Breach of Personally Identifiable Information*, OMB Memorandum M-07-1616 at 1, n. 1 (“The term ‘personally identifiable information’ refers to information which can be used to distinguish or trace an individual’s identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother’s maiden name, etc.”).

<sup>262</sup> 47 U.S.C. §§ 338(i), 551.

develop MVPD-like relationships with viewers?<sup>263</sup> Consumer Groups have urged the Commission “to adopt a binding privacy framework tailored specifically to ATSC 3.0’s hybrid capabilities.”<sup>264</sup> We seek comment on this proposal and how any framework should be tailored.

68. *Notice Requirements.* As discussed above, individual stations are currently required to provide 30 days of notices to viewers, and 90 days’ notice to MVPDs, before “relocating” their 1.0 service, and we have sought comment on explicitly revising those rules to apply to a station that chooses to flash-cut to 3.0 or terminate its current 1.0 simulcast.<sup>265</sup> We also seek comment on whether the Commission should adopt additional pre-transition notice requirements on broadcasters or other industry participants, similar to those adopted leading up to the DTV transition, and the Commission’s authority to adopt such requirements.<sup>266</sup>

69. *RAND Licensing.* We continue to monitor the marketplace for ATSC 3.0 Standard Essential Patents (SEPs) and the ability of third parties to develop products that rely upon them. We invite comment on the state of the market.<sup>267</sup>

70. *Additional Matters.* We seek comment on clarifying edits to sections 73.3801(i)(1), 73.6029(i)(1) and 74.782(j)(i) to add the terms “simulcast” and “non-simulcast” in order to make clear, in light of proposed changes to our rules and as the Commission determined in the *Third Report and Order*, that licensed multicast streams aired in a 1.0 format may be either simulcast (i.e., aired in both a 1.0 and

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<sup>263</sup> See Consumer Groups Comments at 30 (“At present, there are no federal privacy laws that specifically apply to broadcasters using the ATSC 3.0 return path to collect viewer data.... As a result, ATSC 3.0 risks creating a regulatory vacuum: broadcasters can collect individualized data using internet return paths, but are subject to none of the baseline consumer privacy protections applicable to other multichannel video programming distributors.”).

<sup>264</sup> *Id.* at 31 (stating that certain “principles should guide any FCC rules addressing privacy in ATSC 3.0 after any eventual transition” including the following topics: (1) “Affirmative, opt-in consent for internet-enabled data collection;” (2) “Transparency and notice;” (3) “Data minimization and retention limits;” (4) “Limitations on third-party sharing;” (5) “Access and Correction Rights;” (6) Device-level controls and offline functionality;” and (7) “Enforcement and Penalties.”).

<sup>265</sup> *Supra* para. 17 (discussing the requirements in 47 CFR §§ 73.3801(g), 73.6029(g), 74.782(h) (Viewer notice requirements) and 47 CFR §§ 73.3801(h), 73.6029(h), 74.782(i) (MVPD notice requirements)). We also propose to make clean up edits to the MVPD notice requirements to reflect that the post-incentive auction transition period has passed and as such the requirement to provide 120 day notice to MVPDs no longer applies. See *infra* Appx. A, Proposed Rules (proposing revisions to 47 CFR §§ 73.3801(h)(A), 73.6029(h)(A), 74.782(i)(A)). We seek comment on this update to the rule.

<sup>266</sup> In its *DTV Consumer Education Initiative* proceeding, the Commission sought to ensure widespread consumer understanding of the benefits and mechanics of the transition by promoting a coordinated, national DTV consumer education campaign. See generally *DTV Consumer Education Initiative*, MB Docket No. 07-148, Report and Order, 23 FCC Rcd 4134 (2008), modified in part on reconsideration by Order on Reconsideration and Further Notice of Proposed Rulemaking, 23 FCC Rcd 7272 (2008). The following requirements were among those adopted: (1) All full-power broadcasters must regularly conduct on-air education, including Public Service Announcements, to explain the various important issues of the transition and explain how viewers can find more information; (2) Broadcast stations must electronically report their consumer education efforts to the Commission on a quarterly basis via Form 388, and these reports must be placed in the broadcaster’s public file and, if a broadcaster has a public website, on that website; (3) All MVPDs must provide notice of the DTV transition to their subscribers in monthly bills or billing notices; (4) Manufacturers of television receivers and certain related devices must include information with those devices explaining what effect, if any, the DTV transition will have on their use; (5) DTV.gov Transition Partners must report their consumer education efforts, as a condition of continuing Partner status; (6) Eligible telecommunications carriers (ETCs) must provide DTV transition information to Lifeline and Link-Up customers; (7) Winning bidders in the 700 MHz spectrum auctions (Auctions 73 and 76) must detail, on a quarterly basis, what, if any, DTV transition consumer education efforts they are conducting. *Id.*

<sup>267</sup> The Commission last sought comment on patent licensing in the *Fourth FNPRM* in this docket. See *Third Report and Order and Fourth FNPRM*, 38 FCC Rcd at 6442-46, paras. 50-55.

3.0 format) or non-simulcast (i.e., aired in only a 1.0 format).<sup>268</sup> We also seek comment on non-substantive edits to sections 73.6029(c)(3) and 74.782(d) to add missing terminology and sections 74.782(g), (i), and (j) to update inaccurate cross references.<sup>269</sup> Finally, in addition to the specific issues discussed in this *FNPRM*, we seek comment generally on any other matters related to the ATSC 3.0 transition, including but not limited to matters raised in the existing record.

#### IV. PROCEDURAL MATTERS

71. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>270</sup> requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”<sup>271</sup> Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning potential rule and policy changes contained in this *FNPRM*. The IRFA is set forth in Appendix B. The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the *FNPRM* indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

72. *Paperwork Reduction Act.* This document may contain proposed new or modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on any information collections contained in this document, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501-3521. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, 44 U.S.C. § 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

73. *Ex Parte Rules—Permit-But-Disclose.* This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>272</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native

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<sup>268</sup> See *id.* at 6418-9, paras. 15-16; *infra* Appx. A, Proposed Rules (proposing to revise 47 CFR §§ 73.3801(i)(1), 73.6029(i)(1) and 74.782(j)(1)).

<sup>269</sup> *Infra* Appx. A, Proposed Rules.

<sup>270</sup> 5 U.S.C. §§ 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>271</sup> *Id.* § 605(b).

<sup>272</sup> 47 CFR §§ 1.1200 *et seq.*

format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

74. *Filing Requirements—Comments and Replies.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs>.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
  - Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.
  - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
  - Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

75. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530.

76. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be publicly available online via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

77. *Providing Accountability Through Transparency Act:* The Providing Accountability Through Transparency Act requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule.<sup>273</sup> Accordingly, the Commission will publish a summary of this document at <https://www.fcc.gov/proposed-rulemakings>.

78. *Additional Information.* For additional information on this proceeding, contact Evan Baranoff, Policy Division, Media Bureau at [Evan.Baranoff@fcc.gov](mailto:Evan.Baranoff@fcc.gov) or 202-418-7142.

## V. ORDERING CLAUSES

79. **IT IS ORDERED** that, pursuant to the authority found in sections 1, 4, 7, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 534, and 535 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 157, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 534, and 535, this *Fifth Further Notice of Proposed Rulemaking* **IS HEREBY ADOPTED** and **NOTICE**

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<sup>273</sup> 5 U.S.C. § 553(b)(4). The Providing Accountability Through Transparency Act, Pub. L. No. 118-9 (2023), amended section 553(b) of the Administrative Procedure Act.

**IS HEREBY GIVEN** of the proposals and tentative conclusions described in this *Fifth Further Notice of Proposed Rulemaking*.<sup>274</sup>

80. **IT IS FURTHER ORDERED** that the Commission's Office of the Secretary, **SHALL SEND** a copy of this *Fifth Further Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>274</sup> Pursuant to Executive Order 14215, 90 Fed. Reg. 10447 (Feb. 20, 2025), this regulatory action has been determined to be not significant under Executive Order 12866, 58 Fed. Reg. 68708 (Dec. 28, 1993).



**APPENDIX A****Proposed Rules**

The Federal Communications Commission proposes to amend Parts 73 and 74 of Title 47 of the Code of Federal Regulations (CFR) as set forth below:

**PART 73– RADIO BROADCAST SERVICES**

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

2. Amend § 73.624(b) by revising paragraph (3) to read as follows:

**§ 73.624 Digital television broadcast stations.**

\* \* \* \* \*

- (b) \* \* \*
- (1) \* \* \*
- (2) \* \* \*

(3) TV licensees or permittees that choose to broadcast an ATSC 3.0 signal (using the Next Gen TV transmission standard in § 73.682(f)) shall transmit at least one free over the air video programming stream on that signal that requires at most the signal threshold of a comparable received TV signal. TV licensees or permittees that choose to broadcast an ATSC 3.0 signal (using the Next Gen TV transmission standard in § 73.682(f)) ~~shall~~**may** also simulcast the primary video programming stream on its ATSC 3.0 signal by broadcasting an ATSC 1.0 signal (using the TV transmission standard in § 73.682(d)) from another broadcast television facility within its local market in accordance with ~~the local~~**voluntary** simulcasting ~~requirement~~**as described** in § 73.3801 and § 73.6029 and § 74.782 of this chapter.

\* \* \* \* \*

3. Amend § 73.682 by revising paragraph (f)(1) to read as follows:

**§ 73.682 TV transmission standards.**

\* \* \* \* \*

(d) Broadcast television transmission standards.

(1) Transmission of broadcast television signals shall comply with the standards (incorporated by reference, see § 73.8000) for such transmissions set forth in:

- (i) ATSC A/52;
- (ii) ATSC A/53, Parts 1-4 and 6: 2007 and ATSC A/53 Part 5:2010; ~~and~~
- (iii) ATSC A/65C; ~~and~~

(iv) ATSC A/72, Part 1: 2023, as provided for in § 73.3801(i)(1)(ii) and § 73.6029(i)(1)(ii) and § 74.782(j)(1)(ii).

\* \* \* \* \*

**(f) Next Gen TV broadcast television transmission standard authorized.**

(1) As an alternative to broadcasting ~~only~~ an ATSC 1.0 signal using the DTV transmission standard set forth in paragraph (d) of this section, DTV licensees or permittees may choose to broadcast an ATSC 3.0 signal using the Next Gen TV transmission standard set forth in this paragraph (f), ~~provided it also broadcasts a simulcast signal in ATSC 1.0 (using the DTV transmission standard in § 73.682(d)).~~

(2) \* \* \*

\* \* \* \* \*

4. Amend § 73.3801 to read as follows:

**§ 73.3801 Full Power Television Simulcasting During the ATSC 3.0 (Next Gen TV) Transition**

(a) *Simulcasting arrangements.* For purposes of ~~compliance with the~~ **voluntary** simulcasting ~~requirement as described~~ in paragraph (b) of this section, a full power television station may partner with one or more other full power stations or with one or more Class A, LPTV, or TV translator stations in a simulcasting arrangement for purposes of airing either an ATSC 1.0 or ATSC 3.0 signal on a host station's (i.e., a station whose facilities are being used to transmit programming originated by another station) facilities. Noncommercial educational television stations may participate in simulcasting arrangements with commercial stations.

(1) A full power television station airing an ATSC 1.0 or ATSC 3.0 signal on the facilities of a Class A host station must comply with the rules governing power levels and interference applicable to Class A stations, and must comply in all other respects with the rules and policies applicable to full power television stations set forth in this part.

(2) A full power television station airing an ATSC 1.0 or ATSC 3.0 signal on the facilities of a low power television or TV translator host station must comply with the rules of part 74 of this chapter governing power levels and interference applicable to low power television or TV translator stations, and must comply in all other respects with the rules and policies applicable to full power television stations set forth in this part.

(3) A full power noncommercial educational television (NCE) station airing an ATSC 1.0 or ATSC 3.0 signal on the facilities of a commercial television host station must comply with the rules applicable to NCE licensees.

(b) *Voluntary simulcasting requirement.* A full power television station that chooses to air an ATSC 3.0 signal ~~may must~~ simulcast the primary video programming stream of that signal in an ATSC 1.0 format, ~~as well as any multicast stream(s) in the manner set forth in paragraph (i) of this section. This requirement does not apply to any multicast streams aired on the ATSC 3.0 channel.~~

~~(1) The programming aired on the ATSC 1.0 simulcast signal must be “substantially similar” to that aired on the ATSC 3.0 primary video programming stream. For purposes of this section, “substantially similar” means that the programming must be the same except for advertisements,~~

~~promotions for upcoming programs, and programming features that are based on the enhanced capabilities of ATSC 3.0. These enhanced capabilities include:~~

~~(i) Hyper-localized content (e.g., geo-targeted weather, targeted emergency alerts, and hyper-local news);~~

~~(ii) Programming features or improvements created for the ATSC 3.0 service (e.g., emergency alert “wake-up” ability and interactive program features);~~

~~(iii) Enhanced formats made possible by ATSC 3.0 technology (e.g., 4K or HDR); and~~

~~(iv) Personalization of programming performed by the viewer and at the viewer's discretion.~~

~~(2) For purposes of paragraph (b)(1) of this section, programming that airs at a different time on the ATSC 1.0 simulcast signal than on the primary video programming stream of the ATSC 3.0 signal is not considered “substantially similar.”~~

~~(3) The “substantially similar” requirement in paragraph (b)(1) of this section will sunset on July 17, 2027.~~

(c) **Coverage requirements for the ATSC 1.0 simulcast signal.** For full power broadcasters that elect temporarily to relocate their ATSC 1.0 signal to the facilities of a host station for purposes of deploying ATSC 3.0 service (and that convert their existing facilities to ATSC 3.0), the ATSC 1.0 simulcast signal must continue to cover the station's entire community of license (i.e., the station must choose a host from whose transmitter site the Next Gen TV station will continue to meet the community of license signal requirement over its current community of license, as required by ~~§ 73.625~~ **§ 73.618**) and the host station must be assigned to the same Designated Market Area (DMA) as the originating station (i.e., the station whose programming is being transmitted on the host station).

(d) **Coverage requirements for ATSC 3.0 signals.** For full power broadcasters that elect to continue broadcasting in ATSC 1.0 on the station's existing facilities and transmit an ATSC 3.0 signal on the facilities of a host station, the ATSC 3.0 signal must be established on a host station assigned to the same DMA as the originating station.

(e) **Simulcasting agreements.**

(1) Simulcasting agreements must contain provisions outlining each licensee's rights and responsibilities regarding:

(i) Access to facilities, including whether each licensee will have unrestrained access to the host station's transmission facilities;

(ii) Allocation of bandwidth within the host station's channel;

(iii) Operation, maintenance, repair, and modification of facilities, including a list of all relevant equipment, a description of each party's financial obligations, and any relevant notice provisions;

(iv) Conditions under which the simulcast agreement may be terminated, assigned or transferred; and

(v) How a guest station's (i.e., a station originating programming that is being transmitted using the facilities of another station) signal may be transitioned off the host station.

(2) Broadcasters must maintain a written copy of any simulcasting agreement and provide it to the Commission upon request.

**(f) *Licensing of simulcasting stations and stations converting to ATSC 3.0 operation.***

(1) Each station participating in a simulcasting arrangement pursuant to this section shall continue to be licensed and operated separately, have its own call sign, and be separately subject to all applicable Commission obligations, rules, and policies. ATSC 1.0 and ATSC 3.0 signals aired on the facilities of a host station will be licensed as temporary second channels of the originating station. The Commission will include a note on the originating station's license identifying any ATSC 1.0 or ATSC 3.0 signal being aired on the facilities of a host station. The Commission will also include a note on a host station's license identifying any ATSC 1.0 or ATSC 3.0 guest signal(s) being aired on the facilities of the host station.

(2) ***Application required.*** A full power broadcaster must file an application (FCC Form 2100) with the Commission, and receive Commission approval, before:

(i) Moving its ATSC 1.0 signal to the facilities of a host station, moving that signal from the facilities of an existing host station to the facilities of a different host station, or discontinuing an ATSC 1.0 guest signal;

(ii) Commencing the airing of an ATSC 3.0 signal on the facilities of a host station (that has already converted to ATSC 3.0 operation), moving its ATSC 3.0 signal to the facilities of a different host station, or discontinuing an ATSC 3.0 guest signal; or

(iii) Converting its existing station to transmit an ATSC 3.0 signal or converting the station from ATSC 3.0 back to ATSC 1.0 transmissions.

(3) ***Streamlined process.*** With respect to any application in paragraph (f)(2) of this section, a full power broadcaster may file only an application for modification of license, provided no other changes are being requested in such application that would require the filing of an application for a construction permit as otherwise required by the rules (see, e.g., § 73.1690).

(4) ***Host station.*** A host station must first make any necessary changes to its facilities before a guest station may file an application to air a 1.0 or 3.0 signal on such host.

(5) ***Expedited processing.*** An application filed in accordance with the streamlined process in paragraph (f)(3) of this section will receive expedited processing provided, for stations requesting to air an ATSC 1.0 ~~primary~~ signal on the facilities of a host station, that station **must be assigned to the same DMA as the originating station and** will provide ATSC 1.0 service to at least **the community of license as required in paragraph (c) of this section** ~~95 percent of the predicted population within the noise limited service contour of its original ATSC 1.0 facility~~.

**(6) *Required information.***

(i) An application in paragraph (f)(2) of this section must include the following information:

(A) The station or stations serving as the host or hosts, identified by call sign and facility identification number, if applicable;

(B) The technical facilities of each host station, if applicable;

(C) The DMA of the originating broadcaster's facility and the DMA of each host station, if applicable;

(D) A web link to the exhibit described in paragraph (i) of this section, if applicable; and

(E) Any other information deemed necessary by the Commission to process the application.

(ii) If an application in paragraph (f)(2) of this section includes a request to air an ATSC 1.0 signal on the facilities of a host station or stations, the broadcaster must, in addition to the information in paragraph (f)(6)(i) of this section, also indicate on the application:

(A) The predicted population within the noise limited service contour served by the station's original ATSC 1.0 signal;

(B) The predicted population within the noise limited service contour served by the station's original ATSC 1.0 signal that will lose the station's ATSC 1.0 service as a result of the hosting arrangement or arrangements, including identifying areas of service loss by providing a contour overlap map; and

(C) Whether the ATSC 1.0 primary stream simulcast signal aired on the host station will serve at least **the community of license as required in paragraph (c) of this section** ~~95 percent of the population in paragraph (f)(6)(ii)(A) of this section.~~

~~(iii) If an application in paragraph (2) includes a request to air an ATSC 1.0 signal on the facilities of a host station and does not meet the 95 percent standard in paragraph (6)(ii), the application must contain, in addition to the information in paragraphs (6)(i) and 6(ii), the following information: (A) whether there is another possible host station(s) in the market that would result in less service loss to existing viewers and, if so, why the next Gen TV broadcaster chose to partner with a host station creating a larger service loss; (B) what steps, if any, the station plans to take to minimize the impact of the service loss (e.g., providing ATSC 3.0 dongles, set-top boxes, or gateway devices to viewers in the loss area); and (C) the public interest benefits of the simulcasting arrangement and a showing of why the benefit(s) of granting the application would outweigh the harm(s). These applications will be considered on a case-by-case basis.~~

(g) *Consumer education for Next Gen TV stations.*

(1) Commercial and noncommercial educational stations that **terminate their ATSC 1.0 signal(s) or** relocate their ATSC 1.0 signals (e.g., moving to a host station's facility, subsequently moving to a different host, or returning to its original facility) are required to air daily Public Service Announcements (PSAs) or crawls every day for 30 days prior to the date that the stations will terminate ATSC 1.0 operations on their existing facilities. Stations that transition directly to ATSC 3.0 will be required to air daily PSAs or crawls every day for 30 days prior to the date that the stations will terminate ATSC 1.0 operations.

(2) **PSAs.** Each PSA must be provided in the same language as a majority of the programming carried by the transitioning station and be closed-captioned.

(3) **Crawls.** Each crawl must be provided in the same language as a majority of the programming carried by the transitioning station.

(4) **Content of PSAs or crawls.** For stations **terminating or** relocating their ATSC 1.0 signals or transitioning directly to ATSC 3.0, each PSA or crawl must provide all pertinent information to consumers.

(h) *Notice to MVPDs.*

(1) Next Gen TV stations **terminating their ATSC 1.0 signal(s) or** relocating their ATSC 1.0 signals (e.g., moving to a temporary host station's facilities, subsequently moving to a different host, or returning to its original facility) must provide notice to MVPDs that:

(i) No longer will be required to carry the station's ATSC 1.0 signal due to the **termination or** relocation; or

(ii) Carry and will continue to be obligated to carry the station's ATSC 1.0 signal from the new location.

(2) The notice required by this section must contain the following information:

(i) Date and time of any ATSC 1.0 **termination or** channel changes;

(ii) The ATSC 1.0 channel occupied by the station before and after commencement of local simulcasting;

(iii) Modification, if any, to antenna position, location, or power levels;

(iv) Stream identification information; and

(v) Engineering staff contact information.

(3) If any of the information in paragraph (h)(2) of this section changes, an amended notification must be sent.

(4)

(i) Next Gen TV stations must provide notice as required by this section:

~~(A) At least 120 days in advance of relocating their ATSC 1.0 signals if the relocation occurs during the post-incentive auction transition period; or~~

~~(B) At least 90 days in advance of **terminating or** relocating their ATSC 1.0 signals ~~if the relocation occurs after the post-incentive auction transition period (see 47 CFR 27.4).~~~~

(ii) If the anticipated date of the ATSC 1.0 signal **termination or** relocation changes, the station must send a further notice to affected MVPDs informing them of the new anticipated date.

(5) Next Gen TV stations may choose whether to provide notice as required by this section either by a letter notification or electronically via email if the relevant MVPD agrees to receive such notices by email. Letter notifications to MVPDs must be sent by certified mail, return receipt requested to the MVPD's address in the FCC's Online Public Inspection File (OPIF), if the MVPD has an online file. For cable systems that do not have an online file, notices must be sent to the cable system's official address of record provided in the system's most recent filing in the FCC's Cable Operations and Licensing System (COALS). For MVPDs with no official address in OPIF or COALS, the letter must be sent to the MVPD's official corporate address registered with their State of incorporation.

(i) **Multicast streams.** A Next Gen TV station is not required to license, under paragraph (f) of this section, a "guest" multicast programming stream that it originates and which is aired on a host station. If it chooses to do so, it and each of its licensed guest multicast streams must comply with the requirements of this section (including those otherwise applicable only to primary streams), except ~~for paragraph (f)(5) of this section and~~ as otherwise provided in this paragraph. For purposes of this section, a

“multicast” stream refers to a video programming stream other than the primary video programming stream.

(1) **1.0 Multicast streams.** A Next Gen TV station may license its **simulcast or non-simulcast** guest ATSC 1.0 multicast stream(s) aired on one or more ATSC 1.0 hosts pursuant to paragraph (f) of this section. ~~Non-simulcast streams are not required to comply with paragraph (b) of this section.~~

(i) **Host capacity limit.** A Next Gen TV station that has converted its own facility to 3.0 must not license more capacity on one or more partner host stations, in the aggregate, than the station could use if it were still operating on its own facility in 1.0. It must demonstrate compliance with this limit in its license application exhibit.

(ii) [Reserved]

(2) **3.0 Multicast streams.** A Next Gen TV station may license its guest ATSC 3.0 multicast stream(s) aired on one or more ATSC 3.0 hosts pursuant to paragraph (f) of this section.

(3) **Children's television.** A Next Gen TV station may rely on a multicast stream it is airing via a host partner to comply with the Commission's children's television programming requirement in § 73.671. Such a stream must either be carried on the same host as the Next Gen TV station's primary stream, or on a host that serves at least **the community of license (see § 73.618) 95 percent of the predicted population** served by the Next Gen TV station's pre-transition 1.0 signal.

(4) **Application exhibit required.** A Next Gen TV station seeking to license hosted multicast streams must prepare and host on its public website (or its Online Public Inspection File if the station does not have a dedicated website) the exhibit referenced in paragraph (f)(6)(i)(D) of this section. The exhibit must contain the following:

(i) For each hosted stream: channel number (RF and virtual); network affiliation (or type of programming if unaffiliated); resolution (e.g., 1080i, 720p, 480p, or 480i); whether the stream will be simulcast; and if so, the identity of the paired stream in the other service; and

(ii) For a station that has converted its own facility to 3.0, the exhibit must also demonstrate compliance with the host capacity limit. It may do so by either showing that it is seeking hosting only for streams it was broadcasting on its own 1.0 facility prior to its transition to 3.0, or identifying another 1.0 station that is carrying or has carried the same or a similar programming lineup at the same resolutions on the same type of facility (individual or shared);

(iii) For a station that has converted its own facility to 3.0, the exhibit must also demonstrate compliance with the coverage requirement for guest multicast streams, including by providing a contour map showing the guest multicast stream will continue to serve the station's community of license; and

(iv) **Changes to the exhibit.** Changes to the affiliation or content of a stream that would not result in the use of additional capacity, the elimination of a stream, or non-substantive corrections may be made at the discretion of the applicant but must be reflected in a timely update to the existing public exhibit and an emailed notice to the Chief of the Media Bureau's Video Division or their designee. No other changes, including to the location of the exhibit itself, may be made without the filing and approval of a new application.



5. Amend §73.6029 to read as follows:

**§ 73.6029 Class A television simulcasting during the ATSC 3.0 (Next Gen TV) transition.**

(a) *Simulcasting arrangements.* For purposes of ~~compliance with the~~ **voluntary** simulcasting ~~requirement~~ in paragraph (b) of this section, a Class A television station may partner with one or more other Class A stations or with one or more full power, LPTV, or TV translator stations in a simulcasting arrangement for purposes of airing either an ATSC 1.0 or ATSC 3.0 signal on a host station's (i.e., a station whose facilities are being used to transmit programming originated by another station) facilities.

(1) A Class A television station airing an ATSC 1.0 or ATSC 3.0 signal on the facilities of a full power host station must comply with the rules of Part 73 of this chapter governing power levels and interference, and must comply in all other respects with the rules and policies applicable to Class A television stations, as set forth in this subpart.

(2) A Class A television station airing an ATSC 1.0 or ATSC 3.0 signal on the facilities of a low power television or TV translator host station must comply with the rules of part 74 of this chapter governing power levels and interference that are applicable to low power television or TV translator stations, and must comply in all other respects with the rules and policies applicable to Class A television stations, as set forth in this subpart.

(b) **Voluntary simulcasting requirement.** A Class A television station that chooses to air an ATSC 3.0 signal ~~may must~~ simulcast the primary video programming streams of that signal in an ATSC 1.0 format, **as well as any multicast stream(s) in the manner set forth in paragraph (i) of this section.** ~~This requirement does not apply to any multicast streams aired on the ATSC 3.0 channel.~~

~~(1) The programming aired on the ATSC 1.0 simuleast signal must be “substantially similar” to that aired on the ATSC 3.0 primary video programming stream. For purposes of this section, “substantially similar” means that the programming must be the same except for advertisements, promotions for upcoming programs, and programming features that are based on the enhanced capabilities of ATSC 3.0. These enhanced capabilities include:~~

~~(i) Hyper-localized content (e.g., geo-targeted weather, targeted emergency alerts, and hyper-local news);~~

~~(ii) Programming features or improvements created for the ATSC 3.0 service (e.g., emergency alert “wake up” ability and interactive program features);~~

~~(iii) Enhanced formats made possible by ATSC 3.0 technology (e.g., 4K or HDR); and~~

~~(iv) Personalization of programming performed by the viewer and at the viewer's discretion.~~

~~(2) For purposes of paragraph (b)(1) of this section, programming that airs at a different time on the ATSC 1.0 simuleast signal than on the primary video programming stream of the ATSC 3.0 signal is not considered “substantially similar.”~~

~~(3) The “substantially similar” requirement in paragraph (b)(1) of this section will sunset on July 17, 2027.~~

(c) *Coverage requirements for the ATSC 1.0 simulcast signal.* For Class A broadcasters that elect temporarily to relocate their ATSC 1.0 signal to the facilities of a host station for purposes of deploying ATSC 3.0 service (and that convert their existing facilities to ATSC 3.0), the station:

(1) Must maintain overlap between the protected contour (§ 73.6010(c)) of its existing signal and its ATSC 1.0 simulcast signal;

(2) May not relocate its ATSC 1.0 simulcast signal more than **the distance permitted under § 74.787(b)(2)**~~30 miles from the reference coordinates of the relocating station's existing antenna location~~; and

(3) Must select a host station assigned to the same **Designated Market Area (DMA)** as the originating station (i.e., the station whose programming is being transmitted on the host station).

(d) *Coverage requirements for ATSC 3.0 signals.* For Class A broadcasters that elect to continue broadcasting in ATSC 1.0 from the station's existing facilities and transmit an ATSC 3.0 signal on the facilities of a host station, the ATSC 3.0 signal must be established on a host station assigned to the same DMA as the originating station.

(e) *Simulcasting agreements.*

(1) Simulcasting agreements must contain provisions outlining each licensee's rights and responsibilities regarding:

(i) Access to facilities, including whether each licensee will have unrestrained access to the host station's transmission facilities;

(ii) Allocation of bandwidth within the host station's channel;

(iii) Operation, maintenance, repair, and modification of facilities, including a list of all relevant equipment, a description of each party's financial obligations, and any relevant notice provisions;

(iv) Conditions under which the simulcast agreement may be terminated, assigned or transferred; and

(v) How a guest station's (i.e., a station originating programming that is being transmitted using the facilities of a host station) signal may be transitioned off the host station.

(2) Broadcasters must maintain a written copy of any simulcasting agreement and provide it to the Commission upon request.

(f) *Licensing of simulcasting stations and stations converting to ATSC 3.0 operation.*

(1) Each station participating in a simulcasting arrangement pursuant to this section shall continue to be licensed and operated separately, have its own call sign, and be separately subject to all applicable Commission obligations, rules, and policies. ATSC 1.0 and ATSC 3.0 signals aired on the facilities of a host station will be licensed as temporary second channels of the originating station. The Commission will include a note on the originating station's license identifying any ATSC 1.0 or ATSC 3.0 signal being aired on the facilities of a host station. The Commission will also include a note on a host station's license identifying any ATSC 1.0 or ATSC 3.0 guest signal(s) being aired on the facilities of the host station.

(2) *Application required.* A Class A broadcaster must file an application (FCC Form 2100) with the Commission, and receive Commission approval, before:

(i) Moving its ATSC 1.0 signal to the facilities of a host station, moving that signal from the facilities of an existing host station to the facilities of a different host station, or discontinuing an ATSC 1.0 guest signal;

(ii) Commencing the airing of an ATSC 3.0 signal on the facilities of a host station (that has already converted to ATSC 3.0 operation), moving its ATSC 3.0 signal to the facilities of a different host station, or discontinuing an ATSC 3.0 guest signal; or

(iii) Converting its existing station to transmit an ATSC 3.0 signal or converting the station from ATSC 3.0 back to ATSC 1.0 transmissions.

(3) *Streamlined process.* With respect to an application in paragraph (f)(2) of this section, a Class A broadcaster may file only an application for modification of license provided no other changes are being requested in such application that would require the filing of an application for a construction permit as otherwise required by the rules (see, e.g., § 73.1690).

(4) *Host station.* A host station must first make any necessary changes to its facilities before a guest station may file an application to air a 1.0 or 3.0 signal on such host.

(5) *Expedited processing.* An application filed in accordance with the streamlined process in paragraph (f)(3) of this section will receive expedited processing provided, for stations requesting to air an ATSC 1.0 **primary** signal on the facilities of a host station, that station **must be assigned to the same DMA as the originating station and will meet the coverage requirements in paragraph (c) of this section** ~~provide ATSC 1.0 service to at least 95 percent of the predicted population within the noise limited service contour of its original ATSC 1.0 facility.~~

(6) *Required information.*

(i) An application in paragraph (f)(2) of this section must include the following information:

(A) The station or stations serving as the host or hosts, identified by call sign and facility identification number, if applicable;

(B) The technical facilities of each host station, if applicable;

(C) The DMA of the originating broadcaster's facility and the DMA of each host station, if applicable;

(D) A web link to the exhibit described in paragraph (i) of this section, if applicable; and

(E) Any other information deemed necessary by the Commission to process the application.

(ii) If an application in paragraph (f)(2) of this section includes a request to air an ATSC 1.0 signal on the facilities of a host station or stations, the broadcaster must, in addition to the information in paragraph (f)(6)(i) of this section, also indicate on the application:

(A) The predicted population within the noise limited service contour served by the station's original ATSC 1.0 signal;

(B) The predicted population within the noise limited service contour served by the station's original ATSC 1.0 signal that will lose the station's ATSC 1.0 service as a result of the hosting arrangement or arrangements, including identifying areas of service loss by providing a contour overlap map; and

(C) Whether the ATSC 1.0 primary stream simulcast signal aired on the host station will **meet the coverage requirements in paragraph (c) of this section** ~~serve at least 95 percent of the population in paragraph (f)(6)(ii)(A) of this section.~~

~~(iii) If an application in paragraph (2) includes a request to air an ATSC 1.0 signal on the facilities of a host station and does not meet the 95 percent standard in paragraph (6)(ii), the application must contain, in addition to the information in paragraphs (6)(i) and (6)(ii), the following information: (A) whether there is another possible host station(s) in the market that would result in less service loss to existing viewers and, if so, why the next Gen TV broadcaster chose to partner with a host station creating a larger service loss; (B) what steps, if any, the station plans to take to minimize the impact of the service loss (e.g., providing ATSC 3.0 dongles, set-top boxes, or gateway devices to viewers in the loss area); and (C) the public interest benefits of the simulcasting arrangement and a showing of why the benefit(s) of granting the application would outweigh the harm(s). These applications will be considered on a case-by-case basis.~~

(g) *Consumer education for Next Gen TV stations.*

(1) Class A stations that **terminate their ATSC 1.0 signal(s) or** relocate their ATSC 1.0 signals (e.g., moving to a host station's facilities, subsequently moving to a different host, or returning to its original facility) will be required to air daily Public Service Announcements (PSAs) or crawls every day for 30 days prior to the date that the stations will terminate ATSC 1.0 operations on their existing facilities. Stations that transition directly to ATSC 3.0 will be required to air daily PSAs or crawls every day for 30 days prior to the date that the stations will terminate ATSC 1.0 operations.

(2) *PSAs.* Each PSA must be provided in the same language as a majority of the programming carried by the transitioning station and be closed-captioned.

(3) *Crawls.* Each crawl must be provided in the same language as a majority of the programming carried by the transitioning station.

(4) *Content of PSAs or crawls.* For stations **terminating or** relocating their ATSC 1.0 signals or transitioning directly to ATSC 3.0, each PSA or crawl must provide all pertinent information to consumers.

(h) *Notice to MVPDs.*

(1) Next Gen TV stations **terminating their ATSC 1.0 signal(s) or** relocating their ATSC 1.0 signals (e.g., moving to a temporary host station's facilities, subsequently moving to a different host, or returning to its original facility) must provide notice to MVPDs that:

(i) No longer will be required to carry the station's ATSC 1.0 signal due to the **termination or** relocation; or

(ii) Carry and will continue to be obligated to carry the station's ATSC 1.0 signal from the new location.

(2) The notice required by this section must contain the following information:

(i) Date and time of any ATSC 1.0 **termination or** channel changes;

(ii) The ATSC 1.0 channel occupied by the station before and after commencement of local simulcasting;

(iii) Modification, if any, to antenna position, location, or power levels;

(iv) Stream identification information; and

(v) Engineering staff contact information.

(3) If any of the information in paragraph (h)(2) of this section changes, an amended notification must be sent.

(4)

(i) Next Gen TV stations must provide notice as required by this section:

~~(A) At least 120 days in advance of relocating their ATSC 1.0 signals if the relocation occurs during the post-incentive auction transition period; or~~

~~(B) At least 90 days in advance of terminating or relocating their ATSC 1.0 signals if the relocation occurs after the post-incentive auction transition period.~~

(ii) If the anticipated date of the ATSC 1.0 signal **termination or** relocation changes, the station must send a further notice to affected MVPDs informing them of the new anticipated date.

(5) Next Gen TV stations may choose whether to provide notice as required by this section either by a letter notification or electronically via email if the relevant MVPD agrees to receive such notices by email. Letter notifications to MVPDs must be sent by certified mail, return receipt requested to the MVPD's address in the FCC's Online Public Inspection File (OPIF), if the MVPD has an online file. For cable systems that do not have an online file, notices may be sent to the cable system's official address of record provided in the system's most recent filing in the FCC's Cable Operations and Licensing System (COALS). For MVPDs with no official address in OPIF or COALS, the letter must be sent to the MVPD's official corporate address registered with their State of incorporation.

(i) *Multicast streams.* A Next Gen TV station is not required to license, under paragraph (f) of this section, a "guest" multicast programming stream that it originates and which is aired on a host station. If it chooses to do so, it and each of its licensed guest multicast streams must comply with the requirements of this section (including those otherwise applicable only to primary streams), except ~~for paragraph (f)(5) of this section and~~ as otherwise provided in this paragraph. For purposes of this section, a "multicast" stream refers to a video programming stream other than the primary video programming stream.

(1) *1.0 Multicast streams.* A Next Gen TV station may license its **simulcast or non-simulcast** guest ATSC 1.0 multicast stream(s) aired on one or more ATSC 1.0 hosts pursuant to paragraph (f) of this section. ~~Non-simulcast streams are not required to comply with paragraph (b) of this section.~~

(i) *Host capacity limit.* A Next Gen TV station that has converted its own facility to 3.0 must not license more capacity on one or more partner host stations, in the aggregate, than the station could use if it were still operating on its own facility in 1.0. It must demonstrate compliance with this limit in its license application exhibit.

(2) *3.0 Multicast streams.* A Next Gen TV station may license its guest ATSC 3.0 multicast stream(s) aired on one or more ATSC 3.0 hosts pursuant to paragraph (f) of this section.

(3) *Children's television.* A Next Gen TV station may rely on a multicast stream it is airing via a host partner to comply with the Commission's children's television programming requirement in § 73.671. Such a stream must either be carried on the same host as the Next Gen TV station's primary stream, or on a host that serves at least **the area required under paragraph (c) of this section 95 percent of the predicted population served by the Next Gen TV station's pre-transition 1.0 signal.**

(4) *Application exhibit required.* A Next Gen TV station seeking to license hosted multicast streams must prepare and host on its public website (or its Online Public Inspection File if the station does not have a

dedicated website) the exhibit referenced in paragraph (f)(6)(i)(D) of this section. The exhibit must contain the following:

- (i) For each hosted stream: channel number (RF and virtual); network affiliation (or type of programming if unaffiliated); resolution (e.g., 1080i, 720p, 480p, or 480i); whether the stream will be simulcast; and if so, the identity of the paired stream in the other service; and
- (ii) For a station that has converted its own facility to 3.0, the exhibit must also demonstrate compliance with the host capacity limit. It may do so by either showing that it is seeking hosting only for streams it was broadcasting on its own 1.0 facility prior to its transition to 3.0, or identifying another 1.0 station that is carrying or has carried the same or a similar programming lineup at the same resolutions on the same type of facility (individual or shared);
- (iii) For a station that has converted its own facility to 3.0, the exhibit must also demonstrate compliance with the coverage requirement for guest multicast streams, including by providing a contour map showing the guest multicast stream will continue to serve the station's community of license; and
- (iv) *Changes to the exhibit.* Changes to the affiliation or content of a stream that would not result in the use of additional capacity, the elimination of a stream, or non-substantive corrections may be made at the discretion of the applicant but must be reflected in a timely update to the existing public exhibit and an emailed notice to the Chief of the Media Bureau's Video Division or their designee. No other changes, including to the location of the exhibit itself, may be made without the filing and approval of a new application.

6. Amend §73.8000(a) by adding new paragraph (2)(vii) to read as follows:

**§73.8000 Incorporation by reference.**

\* \* \* \* \*

(a) \* \* \*

(2) \* \* \*

**(vii) ATSC Standard A/72, Part 1:2023-04, “Video System Characteristics of AVC in the ATSC Digital Television System,” (Apr. 25, 2023), IBR approved for § 73.682.**

\* \* \* \* \*

**PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER  
PROGRAM DISTRIBUTIONAL SERVICES**

7. The authority citation for part 74 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302a, 303, 307, 309, 310, 325, 336 and 554.



8. Amend § 74.782 to read as follows:

**§ 74.782 Low power television and TV translator simulcasting during the ATSC 3.0 (Next Gen TV) transition.**

(a) *Simulcasting arrangements.* **For purposes of voluntary simulcasting in paragraph (b) of this section, ~~While broadcasters are voluntarily deploying ATSC 3.0,~~** a low power television (LPTV) or TV translator station may partner with one or more other LPTV or TV translator stations or with one or more full power or Class A stations in a simulcasting arrangement for purposes of airing either an ATSC 1.0 or ATSC 3.0 signal on a host station's (i.e., a station whose facilities are being used to transmit programming originated by another station) facilities.

(1) An LPTV or TV translator station airing an ATSC 1.0 or ATSC 3.0 signal on the facilities of a full power host station must comply with the rules of part 73 of this chapter governing power levels and interference, and must comply in all other respects with the rules and policies applicable to low power television or TV translator stations set forth in this part.

(2) An LPTV or TV translator station airing an ATSC 1.0 or ATSC 3.0 signal on the facilities of a Class A host station must comply with the rules governing power levels and interference applicable to Class A television stations, and must comply in all other respects with the rules and policies applicable to LPTV or TV translator stations as set forth in Part 74 of this chapter.

(b) **Voluntary simulcasting requirement.** An LPTV or TV translator station that elects voluntarily to simulcast ~~while broadcasters are voluntarily deploying ATSC 3.0~~ **may must** simulcast the primary video programming stream of their ATSC 3.0 signal in an ATSC 1.0 format, **as well as any multicast stream(s) in the manner set forth in paragraph (j) of this section.** ~~This requirement does not apply to any multicast streams aired on the ATSC 3.0 channel.~~

~~(1) The programming aired on the ATSC 1.0 simulcast signal must be “substantially similar” to that aired on the ATSC 3.0 primary video programming stream. For purposes of this section, “substantially similar” means that the programming must be the same except for advertisements, promotions for upcoming programs, and programming features that are based on the enhanced capabilities of ATSC 3.0. These enhanced capabilities include:~~

~~(i) Hyper-localized content (e.g., geo-targeted weather, targeted emergency alerts, and hyper-local news);~~

~~(ii) Programming features or improvements created for the ATSC 3.0 service (e.g., emergency alert “wake up” ability and interactive program features);~~

~~(iii) Enhanced formats made possible by ATSC 3.0 technology (e.g., 4K or HDR); and~~

~~(iv) Personalization of programming performed by the viewer and at the viewer's discretion.~~

~~(2) For purposes of paragraph (b)(1) of this section, programming that airs at a different time on the ATSC 1.0 simulcast signal than on the primary video programming stream of the ATSC 3.0 signal is not considered “substantially similar.”~~

~~(3) The “substantially similar” requirement in paragraph (b)(1) of this section will sunset on July 17, 2027.~~



(c) *Transitioning directly to ATSC 3.0.* LPTV and TV translator stations may transition directly from ATSC 1.0 to ATSC 3.0 operation without simulcasting.

(d) *Coverage requirements for the ATSC 1.0 simulcast channel.* For LPTV and TV translator stations that elect voluntarily to simulcast and temporarily to relocate their ATSC 1.0 signal to the facilities of a host station for purposes of deploying ATSC 3.0 service (and that convert their existing facilities to ATSC 3.0), the station:

(1) Must maintain overlap between the protected contour of its existing facilities and its ATSC 1.0 simulcast signal;

(2) May not relocate its ATSC 1.0 simulcast signal more than **the distance permitted under § 74.787(b)(2)** ~~30 miles from the reference coordinates of the relocating station's existing antenna location~~; and

(3) Must select a host station assigned to the same Designated Market Area (**DMA**) as the originating station (i.e., the station whose programming is being transmitted on the host station).

(e) *Coverage requirements for ATSC 3.0 signals.* For LPTV and TV translator stations that elect voluntarily to simulcast and to continue broadcasting in ATSC 1.0 from the station's existing facilities and transmit an ATSC 3.0 signal from a host location, the ATSC 3.0 signal must be established on a host station assigned to the same DMA as the originating station.

(f) *Simulcasting agreements.*

(1) Simulcasting agreements must contain provisions outlining each licensee's rights and responsibilities regarding:

(i) Access to facilities, including whether each licensee will have unrestrained access to the host station's transmission facilities;

(ii) Allocation of bandwidth within the host station's channel;

(iii) Operation, maintenance, repair, and modification of facilities, including a list of all relevant equipment, a description of each party's financial obligations, and any relevant notice provisions;

(iv) Conditions under which the simulcast agreement may be terminated, assigned or transferred; and

(v) How a guest's station's (i.e., a station originating programming that is being transmitted using the facilities of a host station) signal may be transitioned off the host station.

(2) LPTV and TV translators must maintain a written copy of any simulcasting agreement and provide it to the Commission upon request.

(g) *Licensing of simulcasting stations and stations converting to ATSC 3.0 operation.*

(1) Each station participating in a simulcasting arrangement pursuant to this section shall continue to be licensed and operated separately, have its own call sign, and be separately subject to all applicable Commission obligations, rules, and policies. ATSC 1.0 and ATSC 3.0 signals aired on the facilities of a host station will be licensed as temporary second channels of the originating station. The Commission will include a note on the originating station's license identifying any ATSC 1.0 or ATSC 3.0 signal being

aired on the facilities of a host station. The Commission will also include a note on a host station's license identifying any ATSC 1.0 or ATSC 3.0 guest signal(s) being aired on the facilities of the host station.

(2) *Application required.* An LPTV or TV translator broadcaster must file an application (FCC Form 2100) with the Commission, and receive Commission approval, before:

(i) Moving its ATSC 1.0 signal to the facilities of a host station, moving that signal from the facilities of an existing host station to the facilities of a different host station, or discontinuing an ATSC 1.0 guest signal;

(ii) Commencing the airing of an ATSC 3.0 signal on the facilities of a host station (that has already converted to ATSC 3.0 operation), moving its ATSC 3.0 signal to the facilities of a different host station, or discontinuing an ATSC 3.0 guest signal; or

(iii) Converting its existing station to transmit an ATSC 3.0 signal or converting the station from ATSC 3.0 back to ATSC 1.0 transmissions.

(3) *Streamlined process.* With respect to an application in paragraph (g)(2) of this section, an LPTV or TV translator broadcaster may file only an application for modification of license provided no other changes are being requested in such application that would require the filing of an application for a construction permit as otherwise required by the rules (see, e.g., §§ 74.751 and 74.787).

(4) *Host station.* A host station must first make any necessary changes to its facilities before a guest station may file an application to air a 1.0 or 3.0 signal on such host.

(5) *Expedited processing.* An application filed in accordance with the streamlined process in paragraph (g)(3) of this section will receive expedited processing provided, for stations requesting to air an ATSC 1.0 **primary** signal on the facilities of a host station, that station **must be assigned to the same DMA as the originating station and will meet the coverage requirements in paragraph (d) of this section provide ATSC 1.0 service to at least 95 percent of the predicted population within the noise limited service contour of its original ATSC 1.0 facility.**

(6) *Required information.*

(i) An application in paragraph (g)(2) of this section must include the following information:

(A) The station or stations serving as the host or hosts, identified by call sign and facility identification number, if applicable;

(B) The technical facilities of each host station, if applicable;

(C) The DMA of the originating broadcaster's facility and the DMA of each host station, if applicable;

(D) A web link to the exhibit described in paragraph (j)(4) of this section, if applicable; and

(E) Any other information deemed necessary by the Commission to process the application.

(ii) If an application in paragraph (g)(2) of this section includes a request to air an ATSC 1.0 signal on the facilities of a host station or stations, the broadcaster must, in addition to the information in paragraph (g)(6)(i) of this section, also indicate on the application:

(A) The predicted population within the noise limited service contour served by the station's original ATSC 1.0 signal;

(B) The predicted population within the noise limited service contour served by the station's original ATSC 1.0 signal that will lose the station's ATSC 1.0 service as a result of the hosting arrangement or arrangements, including identifying areas of service loss by providing a contour overlap map; and

(C) Whether the ATSC 1.0 primary stream simulcast signal aired on the host station will **meet the coverage requirements in paragraph (d) of this section** ~~serve at least 95 percent of the population in paragraph (f)(6)(ii)(A) of this section.~~

~~(iii) If an application in paragraph (2) includes a request to air an ATSC 1.0 signal on the facilities of a host station and does not meet the 95 percent standard in paragraph (6)(ii), the application must contain, in addition to the information in paragraphs (6)(i) and (6)(ii), the following information: (A) whether there is another possible host station(s) in the market that would result in less service loss to existing viewers and, if so, why the next Gen TV broadcaster chose to partner with a host station creating a larger service loss; (B) what steps, if any, the station plans to take to minimize the impact of the service loss (e.g., providing ATSC 3.0 dongles, set-top boxes, or gateway devices to viewers in the loss area); and (C) the public interest benefits of the simulcasting arrangement and a showing of why the benefit(s) of granting the application would outweigh the harm(s). These applications will be considered on a case-by-case basis.~~

(h) *Consumer education for Next Gen TV stations.*

(1) LPTV and TV translator stations that elect voluntarily to simulcast and that **terminate their ATSC 1.0 signal(s) or** relocate their ATSC 1.0 signals (e.g., moving to a host station's facilities, subsequently moving to a different host, or returning to its original facility) will be required to air daily Public Service Announcements (PSAs) or crawls every day for 30 days prior to the date that the stations will terminate ATSC 1.0 operations on their existing facilities. LPTV and TV translator stations that transition directly to ATSC 3.0 will be required to air daily Public Service Announcements (PSAs) or crawls every day for 30 days prior to the date that the stations will terminate ATSC 1.0 operations.

(2) *PSAs.* Each PSA must be provided in the same language as a majority of the programming carried by the transitioning station and be closed-captioned.

(3) *Crawls.* Each crawl must be provided in the same language as a majority of the programming carried by the transitioning station.

(4) *Content of PSAs or crawls.* For stations **terminating or** relocating their ATSC 1.0 signals or transitioning directly to ATSC 3.0, each PSA or crawl must provide all pertinent information to consumers.

(i) *Notice to MVPDs.*

(1) Next Gen TV stations **terminating their ATSC 1.0 signal(s) or** relocating their ATSC 1.0 simulcast signals (e.g., moving to a temporary host station's facilities, subsequently moving to a different host, or returning to its original facility) must provide notice to MVPDs that:

(i) No longer will be required to carry the station's ATSC 1.0 signal due to the **termination or** relocation; or

(ii) Carry and will continue to be obligated to carry the station's ATSC 1.0 signal from the new location.

(2) The notice required by this section must contain the following information:

- (i) Date and time of any ATSC 1.0 **termination or** channel changes;
- (ii) The ATSC 1.0 channel occupied by the station before and after commencement of local simulcasting;
- (iii) Modification, if any, to antenna position, location, or power levels;
- (iv) Stream identification information; and
- (v) Engineering staff contact information.

(3) If any of the information in paragraph (i)(f)(2) of this section changes, an amended notification must be sent.

(4)

(i) Next Gen TV stations must provide notice as required by this section:

~~(A) At least 120 days in advance of relocating their ATSC 1.0 signals if the relocation occurs during the post-incentive auction transition period; or~~

~~(B) At least 90 days in advance of **terminating or** relocating their ATSC 1.0 signals **if the relocation occurs after the post-incentive auction transition period.**~~

(ii) If the anticipated date of the ATSC 1.0 service **termination or** relocation changes, the station must send a further notice to affected MVPDs informing them of the new anticipated date.

(5) Next Gen TV stations may choose whether to provide notice as required by this section either by a letter notification or electronically via email if the relevant MVPD agrees to receive such notices by email. Letter notifications to MVPDs must be sent by certified mail, return receipt requested to the MVPD's address in the FCC's Online Public Inspection File (OPIF), if the MVPD has an online file. For cable systems that do not have an online file, notices must be sent to the cable system's official address of record provided in the system's most recent filing in the FCC's Cable Operations and Licensing System (COALS). For MVPDs with no official address in OPIF or COALS, the letter must be sent to the MVPD's official corporate address registered with their State of incorporation.

(j) *Multicast streams.* A Next Gen TV station is not required to license, under paragraph (g)(f) of this section, a “guest” multicast programming stream that it originates and which is aired on a host station. If it chooses to do so, it and each of its licensed guest multicast streams must comply with the requirements of this section (including those otherwise applicable only to primary streams), except ~~for paragraph (f)(5) of this section and~~ as otherwise provided in this paragraph. For purposes of this section, a “multicast” stream refers to a video programming stream other than the primary video programming stream.

(1) *1.0 Multicast streams.* A Next Gen TV station may license its **simulcast or non-simulcast** guest ATSC 1.0 multicast stream(s) aired on one or more ATSC 1.0 hosts pursuant to paragraph (g)(f) of this section. ~~Non-simulcast streams are not required to comply with paragraph (b) of this section.~~

(i) *Host capacity limit.* A Next Gen TV station that has converted its own facility to 3.0 must not license more capacity on one or more partner host stations, in the aggregate, than the station could use if it were

still operating on its own facility in 1.0. It must demonstrate compliance with this limit in its license application exhibit.

(2) *3.0 Multicast streams.* A Next Gen TV station may license its guest ATSC 3.0 multicast stream(s) aired on one or more ATSC 3.0 hosts pursuant to paragraph (g)(f) of this section.

(3) **[Reserved]** ~~Children's television. A Next Gen TV station may rely on a multicast stream it is airing via a host partner to comply with the Commission's children's television programming requirement in § 73.671 of this chapter. Such a stream must either be carried on the same host as the Next Gen TV station's primary stream, or on a host that serves at least 95 percent of the predicted population served by the Next Gen TV station's pre-transition 1.0 signal.~~

(4) *Application exhibit required.* A Next Gen TV station seeking to license hosted multicast streams must prepare and host on its public website (or its Online Public Inspection File if the station does not have a dedicated website) the exhibit referenced in paragraph (g)(f)(6)(i)(D) of this section. The exhibit must contain the following:

(i) For each hosted stream: channel number (RF and virtual); network affiliation (or type of programming if unaffiliated); resolution (e.g., 1080i, 720p, 480p, or 480i); whether the stream will be simulcast; and if so, the identity of the paired stream in the other service; and

(ii) For a station that has converted its own facility to 3.0, the exhibit must also demonstrate compliance with the host capacity limit. It may do so by either showing that it is seeking hosting only for streams it was broadcasting on its own 1.0 facility prior to its transition to 3.0, or identifying another 1.0 station that is carrying or has carried the same or a similar programming lineup at the same resolutions on the same type of facility (individual or shared);

(iii) For a station that has converted its own facility to 3.0, the exhibit must also demonstrate compliance with the coverage requirement for guest multicast streams, including by providing a contour map showing the guest multicast stream will continue to serve the station's community of license; and

(iv) *Changes to the exhibit.* Changes to the affiliation or content of a stream that would not result in the use of additional capacity, the elimination of a stream, or non-substantive corrections may be made at the discretion of the applicant but must be reflected in a timely update to the existing public exhibit and an emailed notice to the Chief of the Media Bureau's Video Division or their designee. No other changes, including to the location of the exhibit itself, may be made without the filing and approval of a new application.

9. Amend § 74.795(b) by revising paragraph (1) to read as follows:

**§ 74.795 Low power TV and TV translator transmission system facilities.**

\* \* \* \* \*

(b) \* \* \*

(1) The transmitter shall be designed to produce digital television signals that can be satisfactorily viewed on consumer receiving equipment based on the digital broadcast television transmission standard in § 73.682(d) **or § 73.682(f)** of this chapter;

\* \* \* \* \*

## APPENDIX B

### Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the *Fifth Further Notice of Proposed Rulemaking (FNPRM)* assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the *FNPRM*. The Commission will send a copy of the *FNPRM*, including this IRFA, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy.<sup>2</sup> In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the Federal Register.<sup>3</sup>

#### A. Need for, and Objectives of, the Proposed Rules

2. In 2017, the Commission authorized television broadcasters to use the Next Gen TV transmission standard, also called “ATSC 3.0” or “3.0,” on a voluntary, market-driven basis.<sup>4</sup> The Commission required that any broadcaster voluntarily deploying ATSC 3.0 service must also, with very limited exceptions, continue to air at least their primary stream using the current-generation TV transmission standard, also called “ATSC 1.0” or “1.0.” This is called the local simulcasting requirement. The Commission, however, intended that the local simulcasting requirement be temporary.

3. In the *FNPRM*, the Commission tentatively concludes that it should eliminate the local simulcasting requirement for stations that transition to 3.0. The Commission also tentatively concludes that it should continue to permit simulcasting on a voluntary basis. That is, Next Gen TV broadcast stations can choose if they want to fully transition to 3.0 or if they want to begin, or continue, to simulcast in 1.0. The Commission also proposes to immediately eliminate the “substantially similar” rule and the 95 percent population coverage threshold for expedited processing. The Commission also proposes to permit simulcasting stations to use MPEG-4 in certain situations. Lastly, the Commission seeks comment on a variety of issues related to the ATSC 3.0 transition, including an ATSC 3.0 tuner requirement, encryption of broadcast signals, multichannel video programming distributor (MVPD) carriage of 3.0 signals, and other issues.

#### B. Legal Basis

4. The proposed action is authorized pursuant to the authority found in sections 1, 4, 7, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 534, and 535 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 157, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 534, and 535.

#### C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.

5. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.<sup>5</sup> The RFA generally

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<sup>1</sup> 5 U.S.C. §§ 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> *Id.* § 603(a).

<sup>3</sup> *Id.*

<sup>4</sup> *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930, 9931, para. 1 (2017) (*First Next Gen TV Report and Order and Further Notice*).

<sup>5</sup> 5 U.S.C. § 603(b)(3).

defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>6</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act (SBA).<sup>7</sup> A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.<sup>8</sup> The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.<sup>9</sup>

6. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions.<sup>10</sup> In general, a small business is an independent business having fewer than 500 employees.<sup>11</sup> These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses.<sup>12</sup> Next, “small organizations” are not-for-profit enterprises that are independently owned and operated and not dominant their field.<sup>13</sup> While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees.<sup>14</sup> Finally, “small governmental jurisdictions” are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand.<sup>15</sup> Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.<sup>16</sup>

7. The rules proposed in the *FNPRM* will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS)<sup>17</sup> codes and corresponding SBA size standard.<sup>18</sup> Based on currently available U.S. Census data regarding the

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<sup>6</sup> *Id.* § 601(6).

<sup>7</sup> *Id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>8</sup> 15 U.S.C. § 632.

<sup>9</sup> 13 CFR § 121.903.

<sup>10</sup> 5 U.S.C. § 601(3)-(6).

<sup>11</sup> See SBA, Office of Advocacy, *Frequently Asked Questions About Small Business* (July 23, 2024), [https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business\\_2024-508.pdf](https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business_2024-508.pdf).

<sup>12</sup> *Id.*

<sup>13</sup> 5 U.S.C. § 601(4).

<sup>14</sup> See SBA, Office of Advocacy, *Small Business Facts, Spotlight on Nonprofits* (July 2019), <https://advocacy.sba.gov/2019/07/25/small-business-facts-spotlight-on-nonprofits/>.

<sup>15</sup> 5 U.S.C. § 601(5).

<sup>16</sup> See U.S. Census Bureau, 2022 Census of Governments –Organization, <https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html>, tables 1-11.

<sup>17</sup> The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. See [www.census.gov/NAICS](https://www.census.gov/NAICS) for further details regarding the NAICS codes identified in this chart.

<sup>18</sup> The size standards in this chart are set forth in 13 CFR § 121.201, by six digit NAICS code.



estimated number of small firms in each identified industry, we conclude that the proposed rules will impact a substantial number of small entities. Where available, we also provide additional information regarding the number of potentially affected entities in the industries identified below.

**Table 1. 2022 U.S. Census Bureau Data by NAICS Code**

<b>Regulated Industry (Footnotes specify potentially affected entities within a regulated industry where applicable)</b>	<b>NAICS Code</b>	<b>SBA Size Standard</b>	<b>Total Firms<sup>19</sup></b>	<b>Total Small Firms<sup>20</sup></b>	<b>% Small Firms</b>
Audio and Video Equipment Manufacturing	334310	750 employees	506	492	97.23%
Wireless Telecommunications Carriers (except Satellite) <sup>21</sup>	517112	1,500 employees	1,184	1,081	91.30%
Television Broadcasting Stations	516120	\$47 million	744	657	88.31%
Wired Telecommunications Carriers <sup>22</sup>	517111	1,500 employees	3,403	3,027	88.95%
Electronics and Appliance Retailers	449210	\$40 million	17,421	14,818	85.06%
Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing	334220	1,250 employees	155	136	87.74%

<sup>19</sup> U.S. Census Bureau, “Selected Sectors: Employment Size of Firms for the U.S.: 2022.” Economic Census, ECN Core Statistics Economic Census: Establishment and Firm Size Statistics for the U.S., Table EC2200SIZEEMPfirm, 2025, and “Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2022.” Economic Census, ECN Core Statistics Economic Census: Establishment and Firm Size Statistics for the U.S., Table EC2200SIZEREVfirm, 2025.

<sup>20</sup> *Id.*

<sup>21</sup> Affected Entities in this industry include Broadband Radio Service and Educational Broadband Service and Fixed Microwave Services.

<sup>22</sup> Affected Entities in this industry include Competitive Access Providers, Competitive Local Exchange Carriers (CLECs), Direct Broadcast Satellite (DBS), Home Satellite Dish (HSD) Service, Incumbent Local Exchange Carriers (Incumbent LECs), Open Video Systems, Satellite Master Antenna Television (SMATV) Systems aka Private Cable Operators (PCOs), Cable Companies and Systems (Rate Regulation), and Cable System Operators (Telecom Act Standard).

**Table 2. Telecommunications Service Provider Data**

<b>2024 Universal Service Monitoring Report Telecommunications Service Provider Data<sup>23</sup></b> <b>(Data as of December 2023)</b>	<b>SBA Size Standard (1500 Employees)</b>		
<b>Affected Entity</b>	<b>Total # FCC Form 499A Filers</b>	<b>Small Firms</b>	<b>% Small Entities</b>
Local Exchange Carriers (LECs) <sup>24</sup>	4,904	4,493	91.62
Wired Telecommunications Carriers	4,682	4,276	91.33
Wireless Telecommunications Carriers (except Satellite) <sup>25</sup>	585	498	85.13

**Table 3. Broadcast TV Entity Data**

<b>TV Broadcast Stations (as of August 8, 2025)</b>	<b>SBA Size Standard (\$47 Million)</b>		
<b>Affected Entity</b>	<b># Licensed<sup>26</sup></b>	<b>Small Firms<sup>27</sup></b>	<b>% Small Entities</b>
Television Stations (full power)	1,767	1,672	94.68
Commercial (full power)	1,384	1,289	93.1
Noncommercial educational (NCE)	383	383	100
Class A TV	383	383	100
Low Power (LPTV)	1,780	1,780	100
TV Translators	3,094	3,094	100

<sup>23</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2024), <https://docs.fcc.gov/public/attachments/DOC-408848A1.pdf>.

<sup>24</sup> Affected Entities in this industry include all reporting fixed local service providers (CLECs & Incumbent LECs).

<sup>25</sup> Affected Entities in this industry include all reporting wireless carriers and service providers.

<sup>26</sup> *Broadcast Station Totals as of June 30, 2025*, Public Notice, DA 25-581 (MB July 8, 2025).

<sup>27</sup> According to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on July 8, 2025. All NCE, Class A TV, LPTV and TV Translators are presumed to be small entities under the above SBA small business size standard, given the SBA's large annual receipts threshold for this industry and the nature of these television station licensees.

Table 4. Cable Entities Data

Cable Entities	Size Standard	Total Firms	Small Firms	% Small Firms in Industry
Cable System Operators (Telecom Act Standard) Small Cable Operator	Serves fewer than 498,000 subscribers, either directly or through affiliates <sup>28 29</sup>	530 <sup>30</sup>	524 <sup>31</sup>	98.87%

#### D. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

8. The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.<sup>32</sup>

9. The *FNPRM* seeks comment on a range of potential changes to existing reporting, recordkeeping, or other compliance requirements that, if implemented, would impact small entities to some degree. In the *FNPRM*, the Commission proposes to permit voluntary simulcasting and tentatively concludes that it should eliminate the local simulcasting requirement for stations that transition to ATSC 3.0. Small and other Next Gen TV broadcast stations would be able to choose whether they want to fully transition to ATSC 3.0 without a simulcast (i.e. flash-cut or terminate their existing 1.0 simulcast(s)) or whether they want to begin, or continue, to simulcast in ATSC 1.0. The Commission also proposes to immediately eliminate the “substantially similar” rule, removing the requirement that the programming aired on a Next Gen TV station’s ATSC 1.0 simulcast channel be substantially similar to that of the primary video programming stream on the ATSC 3.0 channel. In addition, the Commission proposes to eliminate the 95 percent coverage threshold for expedited application processing and only require that the originating station is located the same DMA as its host station and its host station meets a minimum coverage requirement (e.g., a station’s community of licensee (COL)). Similarly, the *FNPRM* proposes to revise the children’s television multicast coverage rule to require only COL coverage for full power stations, rather than 95 percent population coverage. The Commission also proposes to allow Class A stations to air children’s programming on a multicast stream so long as the multicast stream host complies with the revised coverage requirements of section 73.6029(c). In addition, the Commission proposes to allow simulcasting ATSC 1.0 stations to use MPEG-4 (a more efficient compression method) for multicast streams. It also seeks comment on whether to extend this flexibility to other situations or broadcasters, and whether, if MPEG-4 is permitted for any broadcasters, it should be added to the broadcasting standard in sections 73.8000(a) and 73.682(d) of our rules (requiring manufacturer

<sup>28</sup> 47 U.S.C. § 543(m)(2) Communications Act of 1934, as amended, size standard for a “small cable operator,” is a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1% of all U.S. subscribers and has no affiliation with entities with gross annual aggregate revenues exceed \$250,000,000.

<sup>29</sup> *FCC Announces Updated Subscriber Threshold for the Definition of Small Cable Operator*, Public Notice, DA 23-906 (MB 2023) (2023 *Subscriber Threshold PN*). In the Public Notice, the Commission determined that there were approximately 49.8 million cable subscribers in the United States at that time using the most reliable source publicly available. This threshold will remain in effect until the Commission issues a superseding Public Notice. See 47 CFR § 76.901(e)(1).

<sup>30</sup> Based on Commission staff review of S&P Global Market Intelligence, S&P Capital IQ Pro, U.S., *Broadband & Video Subscribers by Geography Q3-2025(June 2025)* data. (last visited Sept. 15, 2025).

<sup>31</sup> *Id.*

<sup>32</sup> 5 U.S.C. § 603(b)(4).

compliance) or whether we should provide an exception in section 15.117(b) in the same manner as the 3.0 standard in section 73.682(f) of our rules (which did not impose a requirement on manufacturers).

10. The Commission also seeks comment on issues related to these tentative conclusions and proposals. These include: ATSC 3.0 tuner and labeling requirements and television interface designs; the encryption of broadcast signals, including related costs and benefits for small and other stakeholders; and MVPD carriage of ATSC 3.0, including mandatory carriage of 3.0 signals, and the technical challenges, costs, and other burdens and benefits related to MVPD carriage, specifically by smaller and rural MVPD systems. Finally, the *FNPRM* seeks comment on a number of other outstanding ATSC 3.0 issues, including an eventual sunset of ATSC 1.0 service, continued compliance with A/322, options to offset potential consumer costs related to converter devices, accessibility requirements, emergency alert requirements, requirements to provide a minimum amount of free over-the-air programming, privacy concerns, and pre-transition notice requirements.

11. Television broadcasters have been authorized to use the Next Gen TV (ATSC 3.0) standard on a voluntary, market-driven basis since 2017, allowing broadcasters to decide whether (and if so when) to deploy ATSC 3.0 service and bear the costs associated with such deployment.<sup>33</sup> All broadcasters, including small entities, will need to undertake any costs or burdens associated with ATSC 3.0 service should they choose to do so. The item seeks comment on a requirement that MVPDs carry 3.0 signals, and MVPDs may consequently bear certain costs. The item also seeks comment on a mandate that all new television broadcast receivers be capable of receiving and displaying ATSC 3.0 signals, and manufactures consequently may also bear certain costs. We anticipate the information we receive in comments including, where requested, cost and benefit analyses, will help the Commission further identify and evaluate relevant compliance matters for small entities, including compliance costs and other burdens that may result from the inquiries we make in the *FNPRM*.

**E. Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities**

12. The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities.<sup>34</sup> The discussion is required to include alternatives such as: “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”<sup>35</sup>

13. The *FNPRM* discusses a number of proposals and related alternatives that may reduce economic burdens for small television stations and other broadcasters, if adopted. The proposals contained in this *FNPRM* would eliminate the requirement that Next Gen TV broadcasters simulcast in 1.0, although they are still permitted to do so, and reduce the requirements related to simulcasting. The Commission seeks comment on whether to allow broadcasters to flash-cut or terminate simulcasting 30 days after Federal Register publication of an Order, subject to viewer and MVPD notice requirements, or whether to end the simulcasting requirement on a different date. Regarding Next Gen TV tuner mandates, the Commission seeks comment on whether to adopt proposals to mandate that all new tuners receive and display ATSC 3.0 signals, or whether it is unnecessary at this time based on marketplace demand and availability. If such a mandate were adopted, the Commission asks whether small equipment manufactures would be allowed additional time to comply with the new rules. The *FNPRM* also seeks

<sup>33</sup> *First Next Gen TV Report and Order*, 32 FCC Rcd at 10026-27, para. 32.

<sup>34</sup> 5 U.S.C. § 603(c).

<sup>35</sup> *Id.* § 603(c)(1)-(4).

comment on encryption of over-the-air broadcast signals, and the costs of encryption for broadcasters and manufacturers, including small entities. The *FNPRM* also seeks comment on possible rules governing MVPD carriage of 3.0 signals, and possible exemptions for small MVPDs to limit the costs they would face.

14. The Commission's evaluation of the comments filed in this proceeding will shape the final conclusions it reaches, the final alternatives it considers, and the actions it ultimately takes in this proceeding to minimize any significant economic impact that may occur on small entities from the final rules that are ultimately adopted.

**F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules**

15. None.