

Via electronic filing

July 1, 2025

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard* – GN Docket No. 16-142

Dear Ms. Dortch:

On Friday, June 27, representatives of the Consumer Technology Association (CTA), Public Knowledge, NCTA – The Internet & Television Association, ACA Connects – America’s Communications Association (ACA Connects), American Television Alliance (ATVA), and LPTV Broadcasters Association (LPTVBA) met with the Office of Chairman Carr, Office of Commissioner Gomez, and Media Bureau to discuss the Public Notice in response to the Petition for Rulemaking and Future of Television Initiative Report filed by National Association of Broadcasters (NAB).¹ A full list of participants in the meeting is attached.

This diverse group of stakeholders represents different aspects of the television marketplace, and each is on record individually opposing NAB’s Petition.² Each participating organization has a different perspective, but we all have a common goal. We respectfully urge the Commission to deny NAB’s requests.

Stakeholder Presentations

CTA reiterated its longstanding position that the transition to ATSC 3.0 should remain voluntary and that a mandatory transition to ATSC 3.0 would harm consumers by imposing real costs for consumers, stifling innovation, and levying unneeded regulations. Without any regulatory mandate, the consumer technology industry has done and continues to do its part. CTA members led the development of the ATSC 3.0 suite of standards, and CTA partnered with broadcasters on the NEXTGEN TV name and logo.³ If broadcasters are

¹ *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, MB Docket No. 16-142, DA 25-314 (MB Apr. 7, 2025) (“Public Notice”); see also *Petition for Rulemaking of the National Association of Broadcasters*, GN Docket No. 16-142 (Feb. 26, 2025) (NAB Petition).

² Joint participation in advocacy does not mean agreement with or endorsement of each other’s positions.

³ See Comments of Consumer Technology Association, GN Docket No. 16-142 at 2 (filed May 7, 2025) (CTA Comments).

concerned about market demand for ATSC 3.0 tuners, they need to do their part in consumer education and promotion rather than seeking a technology mandate.

The video and television marketplace has changed significantly in the time it has taken to develop the ATSC 3.0 standard and offer ATSC 3.0 in the marketplace. CTA market research on the video ecosystem shows consumers view video content on screens of all types and sizes – reinforcing that consumers choose their video from many sources of content including broadcast television.⁴ An April 2025 study by Horowitz Research found the portion of American homes with access to live TV channels via broadcast antennas sank from 32% in 2020 to 19% in 2025.⁵ Nielsen data shows that approximately 22.75 million American households use over-the-air (OTA) broadcast television for at least some of their TV viewing, which is a small percentage of the 125 million TV households.⁶ This includes 18.125 million households that exclusively use OTA antennas and an additional 4.625 million that have OTA-capable sets alongside cable or satellite subscriptions.⁷ Given the data from multiple sources that shows a small percentage of households solely rely on OTA broadcast for their video content, it would be harmful to consumers to mandate that all televisions include an ATSC 3.0 tuner because of the increased manufacturing cost to implement for all a feature that only some want.⁸

Public Knowledge asserted that, in addition to harming user rights, the digital rights management (DRM) and certification process creates the ability to gatekeep competition and prevent device makers from including features users might want. The A3SA certification model operates without meaningful external oversight, with licensing terms that are confidential and decision-making processes that are opaque. This private entity, controlled by incumbent broadcasters, would control what devices can use the public airwaves. Startups, open-source projects, and academic developers lack the resources to

⁴ See generally CTA, 2025 U.S. Consumer Technology Ownership & Market Potential Study (May 2025), <https://www.cta.tech/research/2025-us-consumer-technology-ownership-market-potential-study>; CTA, The Video Ecosystem: The Future of TV (Feb. 2025) <https://www.cta.tech/research/the-video-ecosystem-the-future-of-tv>.

⁵ George Winslow, “Survey: Share of Homes With TV Antennas Falls to 19%,” *TV Technology*, (Apr. 10, 2025), <https://www.tvtechnology.com/news/survey-homes-with-tv-antennas-falls-to-19-percent-in-2025> (citing Horowitz Research study “State of Media, Entertainment & Tech: Viewing Behaviors,” <https://www.horowitzresearch.com/syndicated-research/state-of-media-viewing>).

⁶ The Nielsen Company (US), “Beyond big data: The audience watching over the air” (Jan. 2024), <https://www.nielsen.com/insights/2024/beyond-big-data-the-audience-watching-over-the-air>.

⁷ *Id.*

⁸ To demonstrate the potential impact of an ATSC 3.0 tuner mandate, in March 2025, CTA staff conducted a search for 55 inch, 4K resolution, “mini-LED QLED” TVs from one nationwide retailer. The search resulted in eight models, five of which had ATSC 1.0 tuners and three with ATSC 1.0 and 3.0 tuners. Among these televisions, the average price of those with only ATSC 1.0 tuners was \$676, while the average price of televisions with ATSC 3.0 support was \$833. The two most expensive televisions cost significantly more than the others. 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. Given this sample, in addition to other known factors, such as patent licensing costs, it is reasonable to conclude that consumers would pay more if all televisions were mandated to include an ATSC 3.0 tuner. See CTA Comments at 9.

navigate the A3SA certification process, and 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, leaving consumers with fewer choices, higher prices, and less control over how they access public broadcasts.

There are similar concerns with respect to patent fees associated with the ATSC 3.0 standard. Standard-essential patent (SEP) abuse is an ongoing issue, especially when patents are held by entities with conflicts of interest. Excessive fees or hold-ups should not be allowed to limit competition, and the FCC must consider these issues when reviewing the NAB Petition.

Public Knowledge also raised legal issues related to the *American Library* case. In *American Library Association v. FCC*, 406 F.3d 689 (D.C. Cir. 2005), the court held that the FCC lacked authority to impose requirements on consumer electronics, stating that the agency's general jurisdictional grant does not encompass regulation of consumer electronics products post-transmission. The proposed mandatory transition to ATSC 3.0 would require consumer devices to incorporate specific technologies to access encrypted broadcast content, effectively dictating the design and capabilities of televisions and related devices, which mirrors the broadcast flag regime invalidated by the DC Circuit.

Finally, Public Knowledge noted the importance of accessibility and other public interest requirements and argued that the cost of any transition should be borne by the broadcast industry that stands to benefit from it.

NCTA underscored that the Commission should maintain a market-based approach to ATSC 3.0, particularly given that NAB's proposal would impose new regulations and substantial and unjustifiable costs on MVPDs in the absence of any clear consumer demand for ATSC 3.0 signals. None of NCTA's cable operator members are able to carry ATSC 3.0 signals without first making costly changes to their networks—one NCTA member estimates that purchasing and installing new ATSC 3.0 transceivers alone will likely cost tens of millions of dollars and take a substantial amount of time.⁹ The inevitable result would be to drive up the cost of cable service at a time when cable operators are already losing customers.¹⁰ Mandatory carriage of ATSC 3.0 signals will also present formidable technical challenges for MVPDs, all of which must be addressed *before* any stations are required to transition to ATSC 3.0 or any MVPD is required to carry such signals. These outstanding issues strongly caution against moving forward with transition mandates.¹¹ Moreover, as the history of the analog-to-digital transition makes clear,

⁹ See Comments of NCTA – The Internet & Television Association, GN Docket No. 16-142, at 5 (filed May 7, 2025) (NCTA Comments); Comments of the American Television Alliance, GN Docket No. 16-142, at 10-15 (filed May 29, 2017) (listing categories of costs for MVPD carriage of ATSC 3.0 signals).

¹⁰ See NCTA Comments at 5-6.

¹¹ See *id.* at 9-14 (explaining that these challenges require evaluation of complex technical issues; additional standards work and revisions to the Commission's must carry rules).

transitioning all broadcast television stations to a new standard that is not backward compatible with existing consumer devices by a date certain is an enormously costly undertaking that substantially impacts the daily lives of the American people. This is precisely the type of economic and politically significant action for which clear congressional authorization is required.¹² Unlike with the digital transition, the Commission has been granted no such authority with regard to ATSC 3.0. Extending the must carry rules to ATSC 3.0 signals would also impose substantial burdens on cable operators that would violate the First Amendment, as well as the Fifth Amendment’s Takings Clause.¹³

ACA Connects explained that for small providers, the costs of purchasing and installing new equipment to receive and convert ATSC 3.0 signals would be out of proportion with the value of distributing broadcast programming. Being forced to purchase new expensive ATSC 3.0-compatible equipment could lead many smaller and midsize providers already struggling with high programming costs to drop linear video service altogether. Consumers in rural and smaller markets would have fewer options for service due to MVPDs dropping their linear video business because of exorbitant costs.

ATVA discussed the fact that, if broadcasters indeed offer improvements to their television service through ATSC 3.0, many MVPDs will lack the ability or—in the case of satellite carriers—the capacity to pass through such improvements. Thus, even *if* ATSC 3.0 improves broadcasting, there would not be corresponding benefits to many MVPD viewers.¹⁴ This is a big “if” because the record increasingly reflects the possibility that broadcasters will not meaningfully improve television service with ATSC 3.0 but will instead devote their efforts and capacity to introduce a variety of *non-broadcast* services. Indeed, by ATVA’s calculations, NAB has demanded rules that would permit broadcasters to devote more than 95 percent of their broadcast spectrum to non-broadcast services.¹⁵ This raises significant legal issues in addition to those cited by NCTA, including whether such services are truly “ancillary” and whether NAB proposes a reallocation of the broadcast bands by another name.¹⁶ In addition, the Commission cannot reasonably conclude under the Administrative Procedure Act that the public benefits of a forced transition to ATSC 3.0 outweigh the costs if the transition leads primarily to non-broadcast activities. Rather, the costs would accrue to every television viewer, while any benefits would accrue to a handful of broadcasters seeking to monetize their spectrum in other ways.¹⁷

LPTVBA expressed support for authorization to transmit using all current broadcast standards, including ATSC 1.0, ATSC 3.0, and 5G Broadcast. LPTVBA strongly opposes a

¹² See *id.* at 6-7.

¹³ See *id.* at 7-8.

¹⁴ See Comments of the American Television Alliance, GN Docket No. 16-142, at 10-13 (filed May 7, 2025).

¹⁵ *Id.* at 7-10.

¹⁶ *Id.* at 20-21.

¹⁷ *Id.* at 22.

mandatory transition for LPTV and Class A facilities to adopt ATSC 3.0, a standard that is not delivering as promised after 15 years of development. LPTVBA strongly supports LPTV and Class A stations having the option to broadcast in any approved standard or new standard that is the highest and best use in the public interest in a broadcaster's community. If a transition to ATSC 3.0 is mandated, then the Federal Government or Full Power Broadcasters must absorb the cost of the transition for LPTV and Class A stations as the cost is beyond the realities of most stations which are small businesses. LPTVBA strongly supports a required broadcast stream and use of the spectrum for new and innovative First Responder solutions and emergency alerts for LPTV and Class A stations.

Conclusion

As outlined above, stakeholders representing all aspects of the television ecosystem do not support NAB's proposal. This Administration has prioritized regulatory reduction, and it would be counterproductive to adopt new mandates that decrease flexibility and increase costs.¹⁸ In addition, the organizations represented here were all active participants in the Future of Television Initiative (FOTVI) and were honest brokers in working group discussions. Based on our experiences, the FOTVI Report did not accurately portray the consensus reached in the working groups in all instances.

We respectfully urge the Commission to deny NAB's requests.

Pursuant to Section 1.1206 of the FCC's rules, this letter is being electronically filed with your office.¹⁹ Please contact the undersigned if you have any questions regarding this filing.

Respectfully submitted,

Consumer Technology Association
Public Knowledge
NCTA – The Internet & Television Association
ACA Connects – America's Communications Association
American Television Alliance
LPTV Broadcasters Association

cc: FCC Meeting Attendees (via email)

¹⁸ For example, consistent with this approach, FCC leadership has encouraged the identification of outdated rules to eliminate burdensome mandates. See *In Re: Delete, Delete, Delete*, Public Notice, GN Docket No. 25-133, DA 25-219 (rel. Mar. 12, 2025).

¹⁹ 47 C.F.R. § 1.1206.

Attendees

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