

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Petition for Rulemaking to Amend the)	RM-11527
Land Mobile-TV Sharing Rules in the)	
470-512 MHz Band)	

To: The Commission

COMMENTS

The Association for Maximum Service Television, Inc. (“MSTV”)¹ and the National Association of Broadcasters (“NAB”)² hereby file in support of the Petition for Rulemaking (“Petition”) filed by the National Public Safety Telecommunications Council (“NPSTC”).³ NPSTC has proposed that the Commission modify certain rules governing land mobile/television sharing in the 470-512 MHz band (television channels 14-20). MSTV and NAB agree that the transition of full-power television stations to final digital operations on June 12, 2009 may present an opportunity for changes to the nature and scope of interference protection rules regarding public safety entities in the eleven markets nationwide where they operate. Such changes must be limited to public safety users, however, and should be implemented carefully in order to avoid interference to the public’s access to free, over-the-air television service.

¹ MSTV is a nonprofit trade association of local broadcast television stations committed to achieving and maintaining the highest technical quality of the local broadcast system.

² NAB is a nonprofit trade association that advocates on behalf of more than 8,300 free, local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission, the Courts, and other federal agencies.

³ See Petition for Rulemaking by the NPSTC (filed Feb. 18, 2009), RM-11527.

I. MSTV AND NAB GENERALLY SUPPORT THE NPSTC PETITION.

MSTV and NAB agree with NPSTC that the digital transition presents an opportunity to revisit some of the land mobile-television sharing rules relating to public safety set forth at Part 90, Subpart L. Full-power broadcasters will stop analog broadcasting on June 12, 2009, and it makes sense to identify aspects of the Subpart L rules that could be revised to reflect this fact. In particular, MSTV and NAB agree that the Commission should issue a notice of proposed rulemaking with respect to the following matters:

Contour Protection and D/U Ratios. NPSTC's Petition proposed that the Commission replace the contour protection criteria found in § 90.307⁴ with the criteria found in § 90.545,⁵ the latter of which protect television operations on channels 62-65 and 67-69 from public safety operations on television channels 62-63 and 68-69. MSTV and NAB believe it would be appropriate to discuss whether the protection rules applicable to DTV stations under § 90.545 should be extended to protect DTV stations from the limited number of public safety users with operations on channels 14-20. However, MSTV and NAB note that § 90.545's relaxed standard applies only to public safety users.⁶ Applying this relaxed standard to the much larger group of other land mobile licensees would create a greater risk of interference to the public's television service.⁷ Accordingly, any proposal to apply § 90.545 to operations in the

⁴ 47 C.F.R. § 90.307.

⁵ 47 C.F.R. § 90.545.

⁶ See 47 C.F.R. § 90.523 (limiting eligibility to operate in the 763–775 MHz and 793–805 MHz frequency bands to certain public safety services).

⁷ Section 90.311, 47 C.F.R. § 90.311, provides that eligible land mobile licensees in this band include taxicab operators, manufacturing and industrial concerns, and other commercial entities.

470-512 MHz band should be limited to public safety users. Issuing a notice of proposed rulemaking would afford parties the opportunity to examine this proposal in detail.

Distance Separations. NPSTC has proposed application of spacing requirements developed for the 700 MHz band to land mobile operations in the 470-512 MHz band. MSTV and NAB believe the Petition's request for a notice of proposed rulemaking on this matter is appropriate, as it appears that subjecting public safety users to the restrictions set forth in § 90.545(c)(1)⁸ may appropriately protect DTV operations. As noted above, however, the risk of interference to broadcast operations would be too great if all land mobile operations were subject to relaxed land spacing requirements, and MSTV and NAB's support for a notice of proposed rulemaking is limited to public safety operations.

Area of Operation. NPSTC states that suburban expansion in the eleven markets where public safety operations can operate on channels 14-20 has had the consequence of bringing outlying areas into the metropolitan economies, although they remain excluded from the permissible public safety coverage areas. The Petition notes that public safety entities are able to obtain waivers to operate in these outlying areas, but cite the burdens of applying for such waivers and operating as a secondary service. MSTV and NAB believe it is appropriate to discuss expanding the area in which public safety land mobile operations may operate, from 50 miles (80 kilometers) from the land mobile base station to 80 miles (128 kilometers), including examining the impact of such a change on television operations.

First 300 kHz. NPSTC notes that the first 300 kHz of each channel (base and mobile segments) is, for most channels, allocated for common carrier use. It believes that "this

⁸ 47 C.F.R. § 90.545(c)(1).

band is lightly used by common carriers”⁹ and proposes that the Commission give public safety entities access to this spectrum without the need for a waiver. MSTV and NAB believe this issue should be explored in the context of a notice of proposed rulemaking.

II. CHANGES SHOULD BE LIMITED TO PUBLIC SAFETY USERS AND SHOULD NOT INTERFERE WITH PRIMARY TELEVISION OPERATIONS.

MSTV and NAB support providing public safety users with appropriate flexibility. It is important to note, however, that the public interest justifications for permitting expanded land mobile operations in television channels 14-20 are sufficient at this time only for public safety users but not for other land mobile operators. Television stations provide critical emergency information and breaking news to the public, including information about hurricanes, floods, fires, terrorist attacks, bridge collapses, hazardous materials spills, crime, and many other events that threaten the public safety. To the extent that the Commission proposes to relax the Subpart L rules, such relaxation would necessarily come at the expense of the public’s television service—including broadcasters’ public safety operations. To ensure that public safety information and operations in the 470–512 MHz band are not compromised, the Commission should limit any proposed changes to public safety users.

Any proposed modification of the Subpart L rules must be limited and careful because of increased demands for channels 14-20. In addition to incumbent television broadcasting operations, wireless microphone operations are making increasing use of these channels as they migrate out of channels 52-69. Wireless microphones are critical in supporting newsroom operations and electronic newsgathering (mobile operations that enable on-the-scene reporting, including coverage of breaking news and public safety emergencies). Moreover,

⁹ Petition at 7.

NTIA is examining these channels for shared use by additional devices as part of its “test-bed” program.

Finally, it is important that any rules adopted do not infringe on the public’s digital television service. In addition to providing sports and entertainment programming, over-the-air digital television service provides timely and essential news, weather, and public safety information to the public. Broadcasters are still learning about DTV coverage and interference, and this process will still be at an early stage on June 12, 2009. Accordingly, any proposed rules must (1) protect the coverage areas of all incumbent full power, Class A, low power, and translator stations; (2) preserve broadcasters’ ability to make adjustments to their facilities to ensure the public’s access to digital television service, including by protecting the ability to maximize facilities and to add new “fill in” translator service;¹⁰ and (3) allow incumbent translator, LPTV and Class A stations to change channels. MSTV and NAB believe these protections will ensure the public’s ability to receive over-the-air digital television service while at the same time allowing public safety to improve its service where appropriate.

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¹⁰ See *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Replacement Digital Low Power Television Translator Stations*, Notice of Proposed Rulemaking, 23 FCC Rcd 18534, MB Dkt. No. 08-253 (2008). See *id.* at para. 3 (noting that “[i]t is a priority of the Commission that all Americans continue to receive the television broadcast service that they are accustomed to receiving following the digital transition”).

For the reasons and with the caveats stated above, MSTV and NAB believe it is appropriate to discuss the issues raised in the NPSTC Petition. We look forward to working with the Commission and NPTSC as this proceeding moves forward.

Respectfully submitted,

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May 7, 2009

CERTIFICATE OF SERVICE

I, Kathryn Bowers, a secretary at the law firm of Covington & Burling LLP, do hereby certify that on this 7th day of May, 2009, I caused a copy of the foregoing "Comments" to be sent via first-class U.S. Mail, postage prepaid, to the following:

Ralph A. Haller, Chair
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A handwritten signature in black ink, appearing to read 'Kathryn Bowers', written over a horizontal line.

Kathryn Bowers