



ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re)
)
PMCM TV, LLC)
)
Requests of Various Cable Television)
Operators to Defer Carriage of)
Station KVVV(TV),)
FCC Facility ID No. 86537,)
Middletown Township, New Jersey)

ACCEPTED/FILED

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Federal Communications Commission
Office of the Secretary

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APPLICATION FOR REVIEW

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SUMMARY

In a letter decision, the Media Bureau has effectively deprived Station KVNV(TV), Channel 3, Middletown Township, New Jersey, of *any* cable carriage for the foreseeable future. Its rationale: another broadcaster, whose station operates on over the air RF Channel 33 but with a PSIP major channel number of 3, claims that KVNV's operation with the same major channel number could cause "virtual interference" over the relatively small area where the two stations' signals overlap. (The term "virtual interference" is a meaningless term foreign to the Commission's rules; it does not involve any real world "interference" as that term is commonly understood.) Additionally, the other broadcaster claims that KVNV's entitlement to cable carriage on cable channel 3 in that overlap area would create a conflict for cable operators.

Apparently accepting the complainant's premises, the Bureau has ordered that certain major cable systems are not required to carry KVNV's signal at all until 90 days after (a) the Bureau eventually resolves the substantive questions posed by the complainant *and* (b) that resolution has become final.

Since PMCM, the licensee of KVNV, has agreed to waive its right to cable carriage on channel 3 in the area in which KVNV's signal overlaps that of the complainant, the imagined problem of conflicting demands on those cable systems does not exist.

PMCM's entitlement to carriage on cable channel 3 is afforded by the Communications Act, which expressly accords a television licensee the right to demand must-carry carriage on the channel on which they broadcast over the air, in KVNV's case, Channel 3.

And even if, as the complainant and the Bureau seem to believe, cable channel positioning is to be determined by reference to a station's PSIP major channel number (as opposed to its over the air channel number), the result is still the same, because under the terms

of ATSC A/65 (the only authority with respect to PSIP assignments), KVVN's major channel number must be 3.

Any supposed concerns about "virtual interference" caused by overlapping signals with identical PSIP major channel numbers are contrary to the Commission's own extensive experience as well as the opinions of experts and pictorial evidence presented by PMCM. The Commission itself has authorized multiple situations in which stations with the same major *and* minor channel numbers overlap over millions of households, without apparent problem. In the instant case, consistent with ATSC A/65, PMCM has agreed to utilize a *minor* channel number separate and distinct from any minor channel number used by the complainant. As a result, there is absolutely no basis for any concern about "virtual interference".

The Bureau Order would effectively delay PMCM's ability to secure cable carriage indefinitely. The majority of KVVN's potential audience in New Jersey has already been deprived of the local VHF television service promised them by Congress for years as a result of unnecessary delays imposed by the Commission. Preventing PMCM from reaching that audience through cable carriage on its over the air VHF channel for years more – a likely consequence of the Bureau Order – would be contrary to Section 331 of the Communications Act.

The Bureau's erroneous notion that television stations are entitled to protection from overlap from other stations sharing the same PSIP major channel number would require that the Commission ensure that such protection is included as an integral element in the incentive spectrum auction's repacking process. Since there is no reason to believe that that consideration has been included in planning for the repacking thus far, introduction of that requirement at this late date would likely complicate, and delay, the auctions and consequent repacking.

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1. Pursuant to Section 1.115 of the Commission's Rules, PMCM TV, LLC ("PMCM"), licensee of Station KVVN(TV) ("KVVN"), Channel 3, Middletown Township, New Jersey, hereby seeks review by the full Commission of the decision ("Bureau Order") of the Media Bureau ("Bureau") set out in a July 25, 2014 letter, DA 14-1029, addressed to Tara M. Corvo, Esquire and others. A copy of the Bureau's letter is included as Attachment A hereto.

QUESTIONS PRESENTED FOR REVIEW

Does not PMCM have a statutory right to have KVVN carried, pursuant to the must-carry provisions of the Communications Act, on cable systems within its market on the channel number on which KVVN is broadcast over the air?

Is not PMCM entitled, under Advanced Television Systems Committee ("ATSC") Document A/65 ("ATSC A/65"), to utilize its over-the-air RF Channel 3 as its "major channel" number in KVVN's Program and System Information Protocol ("PSIP")?

Does not the Bureau Order deprive PMCM of its absolute right to cable carriage through the routine notification process it has undertaken, without undue delay or evasion by cable operators?

2. With respect to the first, the Bureau Order denies PMCM its statutory right to *any* must-carry carriage for the indefinite future because the Bureau apparently believes that PMCM may not be entitled to cable positioning on Channel 3, despite the fact that that is both KVVN's over-the-air channel and its proper PSIP major channel number. But that flouts the crystal-clear language of Section 534 of the Communications Act, which explicitly mandates both that broadcast stations carried pursuant to must-carry have the option of demanding carriage "on the cable system channel number on which the local commercial television station is broadcast over the air" and that notifications of must-carry demands (which essentially triggered the complaint here) "shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators". The Bureau Order also ignores the clear direction of ATSC A/65.

3. With respect to the second, the Bureau Order suggests that there may be some question as to the “appropriate” PSIP major channel number to be utilized by KVVN.¹ That suggestion is contrary to ATSC A/65, Section B.1.1 (incorporated by reference in Section 73.682(d) of the Commission’s rules), which directs that, “[f]or a licensee with an NTSC license existing at the time it commences digital service, the major_channel_number [sic] for the virtual channels controlled by the licensee *shall* be set in the TVCT to the NTSC RF channel number existing at the time it commenced digital service.” (Emphasis added.) A copy of Annex B is included as Attachment B hereto. Since KVVN was operating on NTSC RF Channel 3 at the time it commenced digital service, ATSC A/65 mandates that KVVN must utilize Channel 3 for its PSIP major channel number. To the extent that the Bureau Order suggests anything to the contrary, it is simply wrong.

¹ By way of brief technical explanation, a television station’s PSIP contains, in a portion of the transmitted digital signal, information concerning, *e.g.*, the station’s channel as it will appear on the viewer’s receiver. In the pre-digital NTSC days of analog operation, a station transmitted its signal on a particular channel (*i.e.*, its over the air, or radiofrequency (RF), channel) and viewers accessed the transmitted signal by tuning their receivers to that particular channel. In other words, the channel with which the station was identified and identifiable to both the viewer and the viewer’s receiving equipment was the same as the station’s RF channel.

But with digital television, that is no longer the case. Instead, the digital signal contains the transmitting station’s PSIP which, upon reaching the receiver, informs the receiver of the channel number to be associated with the signal. While that channel number may be the same as the station’s RF number, it need not be.

A PSIP channel number consists of two parts, a “major channel number” and a “minor channel number”, *e.g.*, “10.1”, where “10” is the major channel number and “1” is the minor channel number. Importantly, the PSIP channel number – and, indeed, any information in a station’s PSIP – is merely a matter of software, not a matter of RF energy. That is, neither a PSIP nor a channel number included in a PSIP can cause any kind of real world “interference” as that term is commonly understood. As demonstrated below, even though ATSC A/65 cautions against authorizing two or more stations with identical two-part PSIP channel numbers and overlapping service areas, the Commission has authorized just such situations in a number of areas involving millions of potential viewers – without apparent problems.

4. With respect to the third, far from ensuring prompt carriage of KVVN, the Bureau Order gives rise to the very real possibility that KVVN may not obtain carriage for years. That is contrary to Congress's intent that the process of adding, deleting or repositioning television stations on cable systems is to be a reasonably prompt process not subject to undermining or evasion. *See* 47 U.S.C. §534(b)(9). It is also contrary to Section 331 of the Act.

5. The Bureau Order is contrary to the Communications Act, the Commission's rules, ATSC A/65, and the Commission's own direct experience. It imposes yet another unnecessary regulatory obstacle in PMCM's efforts to implement the will of Congress as expressed in 47 U.S.C. §331. If not corrected promptly, the Bureau Order will almost certainly introduce a previously unanticipated complication into the channel repacking process central to the anticipated incentive spectrum auction, a complication that could disrupt and delay that auction.

6. Accordingly, the Bureau Order should be immediately reversed, and the Commission should direct that KVVN is entitled to immediate must-carry carriage on Channel 3 *and* that KVVN must utilize Channel 3 as its PSIP major channel number.

DISCUSSION

A. Background

7. Congress has unequivocally determined that each state should have its own VHF television station. 47 U.S.C. §331(a). Pursuant to that determination, PMCM is in the process of relocating Station KVVN(TV) ("KVVN") – which operates on VHF RF Channel 3 – from Ely, Nevada to Middletown Township, New Jersey. Initiated more than five years ago, PMCM's relocation process has been unnecessarily delayed for years – at considerable expense to PMCM

and at the cost to New Jersey viewers of access to locally-originated programming – because of the Commission’s refusal to acknowledge the statutory obligation imposed by Section 331.²

8. In 2012, the U.S. Court of Appeals reversed the Commission’s 2011 decision³, and ordered the Commission to approve the reallocation of KVNV to New Jersey. This cleared the way for PMCM to move KVNV to New Jersey. The process is nearly complete, and PMCM currently anticipates that the station will be able to commence operation in mid-September, 2014.

9. But, thanks to the Bureau Decision, the goal envisioned by Congress – *i.e.*, the provision of a full-fledged VHF TV station to New Jersey – is again being unnecessarily frustrated.

10. KVNV transmitted on NTSC RF Channel 3 prior to the 2009 DTV transition, and it continues to transmit on RF Channel 3 as a digital station. It has, since the transition, utilized PSIP major channel number 3 to identify itself. The fact that it operates on VHF Channel 3 is the *sine qua non* of its relocation to New Jersey.

11. In connection with the relocation, PMCM has notified cable systems subject to must-carry requirements that PMCM has elected to be positioned on cable channel 3, corresponding to its over-the-air channel and its PSIP major channel number. Such positioning would, obviously, place it with other area VHF stations, thus clearly signaling to viewers its

² See, e.g., *Reallocation of Channel 3 from Ely, Nevada to Middletown Township, New Jersey*, 26 FCC Rcd 13696 (2011).

³ *PMCM TV, LLC v. FCC*, 701 F.3d 380 (D.C. Cir. 2012).

status as a VHF station consistent with Section 331.⁴ Cable operators contacted by PMCM have by and large acknowledged their obligation to carry KVVN on cable channel 3.

12. However, Meredith Corporation (“Meredith”), licensee of Station WFSB(TV) (“WFSB”), Hartford, Connecticut, has objected to KVVN’s use of PSIP major channel number 3, and also to carriage of KVVN on cable channel 3 in Fairfield County, Connecticut, where KVVN’s service area overlaps that of WFSB.

13. WFSB transmits on RF Channel 33 in Hartford (in the Hartford/New Haven DMA), a community separate and distinct – and geographically distant – from Middletown Township, New Jersey, KVVN’s community of license in the New York DMA. But as a pre-DTV transition NTSC analog station, WFSB operated on RF Channel 3. Pursuant to ATSC A/65, WFSB uses PSIP major channel number 3, and it currently enjoys cable channel positioning on that channel.⁵

14. In Meredith’s view, KVVN’s use of PSIP major channel number 3 could cause some kind of “virtual interference” for over-the-air viewers in Fairfield County.⁶ Meredith is also

⁴ Of course, when Section 331 was enacted, a television station’s over the air RF channel was identical to the channel number that appeared on the viewer’s television dial. As a result, based on that unavoidable fact, the expectation was that a viewer would access a station’s signal by tuning into its over the air channel. To break that bond, as contemplated by the Bureau Order, would disrupt that expectation and violate the clear intent of the statute.

⁵ The basis for that positioning does *not* appear to be through any must-carry rights historically asserted by Meredith, at least on Fairfield County cable systems.

⁶ Meredith has provided no technical demonstration that its concerns about “virtual interference” – a concept foreign to the Commission’s rules – have any validity. By contrast, as discussed below, the Commission’s own direct experience confirms that any such concerns are baseless, as do the terms of ATSC A/65, statements of technical experts and actual demonstrations provided by PMCM. Moreover, also as PMCM has shown in its August 9, 2014 Alternate PSIP Proposal, the fact that WFSB’s RF Channel 33 is dramatically short-spaced to identical RF Channel 33 used by WCBS-TV, New York – and, therefore, causes real world interference (as opposed to the imaginary “virtual interference” suggested by Meredith) – effectively reduces to near zero
(Footnote continued on next page)

concerned that a demand for carriage on cable channel 3 by PMCM would conflict with existing carriage of WFSB on cable systems in Fairfield County. A number of large cable operators have seized on Meredith's objection as a supposed basis for deferring their obligation to carry KVVN.⁷

15. In response to concerns expressed by those operators, the Bureau Order relieves those cable operators of *any* carriage requirements vis-à-vis KVVN until 90 days after a "final decision" relative to the PSIP major channel number to be used by KVVN. That places PMCM in a no-win position: if the Bureau denies PMCM carriage on Channel 3 (and/or purports to assign a PSIP major channel number other than 3), PMCM will be forced to litigate the matter; but if the Bureau grants PMCM the relief to which it is entitled, it is possible, if not likely, that Meredith would appeal, thereby preventing the decision favorable to PMCM from becoming "final". Either way, PMCM would be denied the carriage to which it is statutorily entitled for the pendency of the appellate process, perhaps for a period of years. During those years, the overwhelming number of households in the New York DMA who watch television broadcasts via cable (more than 85%, according to 2014 Nielsen statistics) will have lost access to PMCM's Channel 3 entirely.

(Footnote continued from preceding page)

the number of viewers likely to be able receive any useable over-the-air signal from WFSB in Fairfield County.

⁷ It is worth observing that the parties aligning against PMCM here – Meredith, Cablevision, Time Warner Cable – are extremely large entities. According to generally available information, Meredith has a market cap value in excess of \$2 billion, and it's the smallest of the four: Cablevision's is more than twice that (approximately \$5 billion), Time Warner's more than 20 times (approximately \$40 billion). By contrast, PMCM falls within the Small Business Administration's definition of a "small business". The ability of very large companies to rely on baseless regulatory claims in order to stymie the efforts of a small company like PMCM unfortunately harms the public interest here.

B. The essential basis for the Bureau Order is non-existent.

16. The Bureau Order is based on the claim that KVVN and WFSB have “conflicting channel placement claims on certain cable systems”, *i.e.*, those in Fairfield County that happen to lie in the New York DMA. *See* Bureau Order at 3. But PMCM has advised the Bureau that, in the interest of expediting resolution of this matter, PMCM is willing to waive its right to carriage on cable channel 3 in Fairfield County for as long as Meredith asserts a conflicting right to such placement. PMCM’s conciliatory waiver eliminates the essential premise of the Bureau Order by eliminating any chance of channel placement conflicts with Meredith in Fairfield County. With the elimination of that supposed conflict, there is no reason at all to relieve cable systems throughout the remainder of KVVN’s service area – an area of which Fairfield County is but a very minor portion – of the obligation to carry KVVN as required by the Communications Act.

C. PMCM is statutorily entitled to positioning on cable channel 3.

17. While it is willing as a conciliatory gesture to offer a limited waiver of its right to carriage of KVVN on cable channel 3 on the cable systems in Fairfield County, PMCM believes it important to confirm that it is, in fact, absolutely entitled to such carriage. Section 534(b)(6) of the Communications Act expressly mandates in relevant part that must-carry signals “*shall be carried* on the cable system channel number *on which the local commercial television station is broadcast over the air*”. 47 U.S.C. §534(b)(6) (Emphasis added.) The identical language appears in the section of the Commission’s rules governing channel positioning. *See* 47 C.F.R. Section 76.57(a).

18. Since KVVN is “broadcast over the air” on RF Channel 3, KVVN is statutorily entitled to positioning on cable channel 3 on any system as to which it asserts must-carry rights. Therefore, aside from the special case (in the context of this particular matter) of Fairfield

County, cable systems throughout the New York DMA face no uncertainty at all as to the channel on which KVNV is entitled to be carried.

19. PMCM recognizes that the Bureau has in several relatively recent decisions held that channel positioning rights “attach only to [a station’s] Major Channel Number as carried in its PSIP.”⁸ But that restriction is inconsistent with the statute, the Commission’s rules and the full Commission’s own interpretation of both.

20. According to the Bureau, the Commission declared “broadcast over the air” to mean something other than “broadcast over the air” in *Carriage of Digital Television Broadcast Signal: Amendment to Part 76 of the Commission’s Rules*, Declaratory Order, 23 FCC Rcd 14254, 14258 ¶¶ 15-16 (2008) (“*2008 Declaratory Order*”). But the Commission did no such thing. To the contrary, the Commission there expressly stated that “the channel placement options in [Section 534(b)(6)]..., as implemented in Section 76.57 of the Commission’s Rules, remain in effect.” *2008 Declaratory Order* at ¶14. As noted above, Section 534(b)(6) mandates placement on a broadcast station’s *over the air* channel.

21. The *2008 Declaratory Order* was issued because, as a result of the DTV transition, many television stations ended up on RF channels that did not correspond to their pre-transition NTSC channels. But those pre-transition NTSC channels are reflected (pursuant to ATSC A/65) in the PSIP major channel number of each station. The Commission understood that broadcasters might prefer that cable carriage on their historical NTSC channels would continue to be available as an option even if their new digital RF (over-the-air) channels were different from their historical NTSC channels. Accordingly, in the *2008 Declaratory Order*, the

⁸ *E.g., KSQA, L.L.C. v. Cox Cable Communications, Inc.*, DA 12-1682, 27 FCC Rcd 13185 (Media Bureau 2012).

Commission gave broadcasters the option of demanding cable positioning on their PSIP major channel number. In the Commission's words:

any station carried pursuant to mandatory carriage *may* demand carriage on its major channel number as broadcast in the station's PSIP.

2008 Declaratory Order at ¶16 (emphasis added).

22. By using permissive language (“may demand”) that merely allows the PSIP channel option – instead of restrictive language expressly excluding carriage based solely on a station's over-the-air channel – the Commission expanded broadcasters' options. How else to explain the fact that the Commission did not, at the same time, amend Section 76.57(a) to substitute “major channel number as broadcast in the station's PSIP” for “channel number on which the ... station is broadcast over the air”? By leaving that regulatory language in place and by explicitly stating that the statutory channel positioning options “remain in effect”⁹, the Commission clearly indicated that options that were previously available would remain available.

23. Accordingly, PMCM is statutorily entitled to must-carry channel positioning on cable channel 3, *i.e.*, KVNV's over-the-air RF channel.

D. Even if must-carry channel positioning is limited to a station's PSIP major channel number instead of its actual over-the-air RF channel, KVNV is entitled to cable channel 3 because its PSIP major channel number is 3.

24. The Bureau Order appears to view KVNV's PSIP major channel number, rather than its over-the-air RF channel number, as the determining factor with respect to must-carry

⁹ Of course, the Commission could not alter the statutory language even if it wanted to. Rather, it would have to persuade Congress to do so. Since Congress was acutely aware of the Commission's DTV transition efforts, the fact that Congress has not amended the language of Section 534(b)(6) confirms that the channel positioning options described there remain in effect.

channel-positioning rights. Even if that view were correct, it would make no difference here, because under ATSC A/65, PSIP major channel number 3 can and must continue to be assigned to KVVN.

(i) ***ATSC A/65 mandates assignment of PSIP major channel number 3 to KVVN.***

25. In connection with the DTV transition, the Commission adopted no rules concerning assignment of two-part PSIP channel numbers.¹⁰ Instead, it merely incorporated the relevant ATSC standards – set out in ATSC A/65 – into its rules (at Section 73.682(d)). The preamble to ATSC A/65, Annex B, Section B.1.1 describes the “requirements” designed to “guarantee that the two-part channel number combinations used by a licensee will be different from those used by any other licensee with an overlapping DTV Service Area.” Those “requirements” provide that

[f]or a licensee with an NTSC license existing at the time it commences digital service, the major_channel_number [sic] for the virtual channels controlled by the licensee ***shall be set*** in the TVCT to the NTSC RF channel number existing at the time it commenced digital service.

ATSC A/65, Annex B, Section B.1.1 (1) (emphasis added). PMCM had an NTSC license at the time that KVVN commenced digital service. The RF channel number at that time was Channel 3. Accordingly, ATSC A/65 mandates that KVVN’s PSIP major channel number be set at 3.¹¹

¹⁰ In fact, the Commission does not routinely take any action to formally “assign” PSIP channel numbers. Such numbers are not even specified in station licenses.

¹¹ During an informal meeting with Bureau staff, PCMC was advised by the staff that, in their view, subparagraph (4) of Section B.1.1 somehow applies to KVVN. That subparagraph relates to situations where, “after February 17, 2009, an RF channel previously allotted for NTSC in a market is assigned to a newly-licensed DTV licensee in that market.” In such cases, the “newly-licensed” station is to be assigned “the number of the DTV RF channel originally assigned to the previous NTSC licensee of the assigned channel.” This obviously does not apply to KVVN because: (a) KVVN is allocated to the New York market as defined by the Commission’s rules

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(ii) *ATSC A/65 permits overlap of stations with common PSIP major channel numbers.*

26. The Bureau appears to believe that two separately-owned stations whose signals overlap may not share a common PSIP major channel number. That belief is wrong. ATSC A/65 expressly contemplates precisely such overlap.

27. PSIP major channel numbers are assigned pursuant to ATSC A/65, Annex B, Section B.1.1. The provisions of that section “guarantee that the *two-part channel number combinations* used by a licensee will be different from those used by any other licensee with an overlapping DTV Service Area.” (Emphasis added.) That is, the uniqueness of PSIP channel numbers lies *not* in the major channel number, but rather in the *two-part* combinations of major *and* minor channel numbers.

28. As noted above, the major channel number “shall be” the station’s original NTSC over-the-air RF channel. Subparagraph (5) of Section B.1.1 provides an exception to that rule for commonly-owned stations having overlapping service areas but different RF channels. If the licensee wishes to utilize a common PSIP major channel number for all such stations, it may do so. But ATSC A/65 cautions that, in such cases,

[t]he values in the minor_channel_number fields shall be partitioned to ensure that there is no duplication of the two-part channel number in the DTV Service Area, *including the overlapping DTV Service Areas of other licensees using that same major_channel_number.*

(Footnote continued from preceding page)

and RF Channel 3 was not previously allotted to that market; and (b) KVNV, having operated as a licensed DTV station since 2009, is not by any stretch of the imagination a “newly-licensed” station.

(Emphasis added.) The emphasized language makes abundantly clear that overlap of non-commonly-owned stations (*i.e.*, stations owned by “other licensees”) with the same major channel numbers *is* permitted *as long as* separate and distinct *minor* channel numbers are utilized by the overlapping stations. The purpose of the minor channel numbers is to permit receivers to distinguish between or among stations with the same major channel number. This is confirmed in Subparagraph (6) of Section B.1.1, which cautions that there must not be any duplication of *two-part* number combinations by any licensee with an overlapping service area. And this is also consistent with the “guarantee”, noted above, that the “*two-part* channel number combinations used by a licensee will be different from those used by any other licensee with an overlapping DTV Service Area.” (Emphasis added).

29. In light of ATSC A/65’s requirement that overlapping stations have different two-part channel number combinations, PMCM has advised the Bureau that it is willing to accept a two-part number combination of 3.10 for KVVV (with any additional programming streams to be denoted as 3.11, 3.12, etc.).¹² That would be in 100% compliance with the terms of ATSC A/65, which is all that is required with respect to PSIP assignments.¹³

¹² PMCM proposes 3.10 in order to afford Meredith with a total of nine consecutive minor channel numbers (*i.e.*, 3.1, 3.2, 3.3, etc.) to use. In view of spectrum limitations, it is extremely doubtful that Meredith – or any other licensee – would offer nine separate programming streams.

¹³ PMCM had also indicated a willingness – purely as a second choice alternative – to accept major channel number 14 as long as the Bureau would also mandate that PMCM would nevertheless be entitled to cable channel 3. The option of major channel number 14 was initiated by the Bureau; PMCM’s limited interest in that option arose from PMCM’s desire to resolve this matter as quickly as possible. On further reflection, PMCM has decided to withdraw its willingness to consider that option. Channel 14 (or, for that matter, any other UHF channel) is, after all, *not* a VHF channel and, as noted above, providing a VHF station to New Jersey is the *sine qua non* of PMCM’s project.

(iii) Experience establishes that overlap of different stations with common major channel numbers does not create problems.

30. Regardless of the prophylactic provisions of ATSC A/65, everyday experience establishes that the overlap of different stations with identical two-part channel number combinations does *not* cause any problems in the real world. Whether by design or oversight, the Bureau has itself authorized a significant number of such overlap situations – with no ill effects, as far as PMCM is aware. For example, PSIP major channel number 4 is shared by Stations WNBC(TV), New York and WACP(TV), Atlantic City, New Jersey. The service areas of those stations overlap over a substantial portion of New Jersey containing more than a million potential viewers. And yet, it does not appear that any problems have arisen with respect to possible viewer confusion. Similar situations exist in the Detroit and Chicago areas, as well as a three-way overlap involving stations KSLA, KETZ and WJTV in Louisiana-Arkansas-Mississippi, and elsewhere. Given the significant numbers of viewers in these highly-populated overlap areas, it is safe to say that, if overlapping stations with common PSIP major channel numbers caused interference (virtual or otherwise), the Commission and the public would know about it.¹⁴

31. In the absence of any noticeable problem in this regard, no reason at all exists to deprive KVVV of its carriage rights, especially where, as here, PMCM is willing to utilize the unique two-part channel combination of 3.10 (*et seq.*) in order to distinguish itself from Meredith's two-part combination, consistently with ATSC A/65. After all, the Commission itself has authorized multiple overlapping situations that are *not* consistent with that standard; there is

¹⁴ Additionally, PMCM has submitted to the Bureau pictorial evidence of the ability of consumer-grade receivers to distinguish between signals with identical two-part channel combinations.

no justification for denying a proposal such as PMCM's that is completely consistent with the standard.

E. The Bureau Order effectively delays indefinitely PMCM's ability to secure its statutory carriage rights.

32. Ordinarily, adding, deleting or repositioning television stations on cable systems is a routine, every-day occurrence that, under the timeline set out in the Commission's rules, is to be accomplished within a matter of a couple of months. Congress has emphasized that the notification process underlying such additions, deletions or repositionings "shall not be used to undermine or evade the channel positioning or carriage requirements." 47 U.S.C. §534(b)(9). In other words, the process of change is supposed to run smoothly and quickly.

33. While PMCM has taken timely steps to notify cable operators of the impending commencement of KVVN's operation in New Jersey – and thereby assure initiation of carriage at the earliest possible date – the Bureau Order completely defeats PMCM's efforts. To the contrary, the Bureau effectively tosses out the Commission timeline. Rather than provide for immediate carriage of KVVN, the Bureau Order expressly precludes *any* carriage on any of the three major cable systems in the New York DMA until *after* the supposed questions have been resolved *and after* any and all appeals of such resolution have been completed *and after* another 90 days have passed. It is hard to imagine a more effective way of preventing a television station from competing in a cable-dominated market. This ruling would strangle KVVN in its cradle.

34. The purported justification for this approach is that, if PMCM is allowed to initiate carriage on Channel 3 and the Commission eventually decides that PMCM is not entitled to such carriage, the cable operators and their subscribers might be inconvenienced by having to shuffle one or two stations to new positions. There are multiple problems with that.

35. First, as discussed above, there is no legitimate question about PMCM's right to carriage on Channel 3 (and its right to use PSIP major channel number 3). So the Bureau's suggestion to the contrary is at best disingenuous. Second, cable operators change channel line-ups all the time. It is a process that both they and their subscribers are used to. Any inconvenience that might arguably occur would be negligible. By contrast, viewers in New Jersey have been without their own local VHF television station for years, despite a Congressional mandate entitling them to such a station. The Commission has already imposed an unnecessary years-long delay in the implementation of PMCM's station. And now that PMCM is on the verge of commencing broadcast operations in New Jersey, the Bureau Order would effectively deprive PMCM of the vast majority of its potential audience indefinitely. Such a result flies in the face of Sections 331 and 534 of the Act.

36. Finally, by refusing KVVV on-channel carriage until 90 days after an order requiring such carriage becomes final, the Bureau has, for no reason at all, preemptively stayed the effect of such an order favorable to PMCM. That turns the Commission's standard practice on its head. Ordinarily, Commission actions become effective immediately; should any action be modified or reversed during the review process, appropriate corrections are made following such modification/reversal. *See, e.g.*, Section 1.103.¹⁵ In other words, the Bureau Order effectively

¹⁵ In determining whether to stay the effectiveness of any order, the Commission applies the demanding four-factor test established in *Virginia Petroleum Jobbers Ass'n v. FPC*, 259 F.2d 921 (D.C. Cir. 1958), as modified in *Washington Metropolitan Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841 (D.C. Cir. 1977). *See, e.g.*, *Tennis Channel, Inc. v. Comcast Cable Communications, LLC*, 27 FCC Rcd 2794 (2012). That test requires a showing of extraordinary circumstances, including irreparable harm to the party seeking the stay. Here the only conceivable irreparable harm would fall on PMCM, and only if cable carriage on Channel 3 were to be foreclosed for any appreciable time. If the Commission's order were to grant PMCM the carriage to which it is entitled, the cable companies, by contrast, suffer no irreparable harm at all: they would have only to shift a couple of channels.

grants a *sua sponte* stay, based on the thinnest of reeds – the speculative possibility of some minor inconvenience to cable companies – where entities who would benefit from the stay have not even mentioned, much less tried to satisfy, the rigorous *Virginia Petroleum Jobbers* standard.

F. Protecting stations from overlap with other stations using the same major channel number would significantly complicate the incentive spectrum auctions.

37. The Commission itself has adopted no rules concerning assignment of PSIP channel numbers or protection of stations based on PSIPs. Instead, it relies exclusively on ATSC, and ATSC A/65 in particular, for PSIP-related questions. The Commission has not heretofore announced in any way that each station is entitled to protection from overlap from another station (or stations) using the same major channel number PSIP. The notion underlying the Bureau Order – that Meredith (and, by extension, any other station) might be entitled to such protection – is entirely without precedent or other authority.

38. If, for the sake of argument, the protection contemplated by the Bureau Order were to be deemed an actual agency policy, the likely adverse effect on planning for and implementation of the incentive spectrum auctions would be substantial.

39. Since television stations subject to the auction-related repacking have been assured that their service areas and cable carriage are to be preserved in the repacking process, any PSIP-related protection that stations might enjoy under the policy contemplated by the Bureau here would therefore have to be protected post-repacking. But there is no indication in any auction-related materials that the technical repacking analyses (*e.g.*, TV Study) which the Commission has developed (or plans to develop) include consideration of PSIP-based protection. That is hardly surprising since the notion of PSIP-based protection is not an actual Commission

rule, regulation or policy, and thus would not likely have been considered in the design of the repacking analyses.

40. If the Bureau's PSIP-based protection notion were to be adopted by the Commission, those repacking analyses would have to be revised to provide such protection because the repacking process is likely to result in the relocation of multiple stations' transmitter sites. While PSIP-based protection might not impose a significant burden if all stations could be expected to remain exactly where they currently are, that will most certainly not be the case. In effect, the repacking process would now have to account for the avoidance not only of overlapping protected signal contours, but also of overlapping major channel PSIPs which have no actual effect on the viewability of TV signals. And the precise nature and extent of any potential problems posed by the necessary factoring of such protection into the repacking software cannot be easily assessed until the repacking analyses begin.

41. In sum, if the Commission were to endorse the notion of protection based on major channel number PSIPs, the design of the spectrum auction repacking program would have to be significantly revised because the Commission would need to avoid overlap of two channels for every station with a PSIP channel that differs from its over the air channel, not just one. That necessity, at this relatively late date, would likely impose a significant burden and give rise to the prospect of considerable delay and complication to the auction process.

CONCLUSION

42. PMCM wishes to commence operation of KVVN as soon as possible in order to bring local VHF television service to New Jersey, in fulfillment of a clearly-stated Congressional goal. But "television service" includes not merely over-the-air operation; it also includes the full panoply of video delivery options provided – by statute – to all television stations. Requiring

KVNV to operate without the cable carriage to which it is plainly entitled would ironically short-change New Jersey in connection with the very station intended, pursuant to Congress's will, to remedy that state's longstanding second-class television citizenship.¹⁶

43. For its part, the Commission doubtless wants the incentive spectrum auctions and related repacking to proceed as quickly as possible without unnecessary complication.

44. The policy underlying the Bureau Order defeats both of those goals, and does so with immediate effect on both PMCM and the Commission.

45. Since the Bureau Order is plainly contrary to the clear letter of the statute, the rules, the *2008 Declaratory Order* and the Commission's own empirical experience, the Commission should act immediately to review and reverse that Order. This is especially true in view of the fact that PMCM has offered (a) to waive its right to placement on cable channel 3 in Fairfield County (to the extent that Meredith continues to assert a right to such carriage), thereby eliminating any possible conflict there, and (b) to accept the two-part PSIP channel combination of 3.10 *et seq.*, thereby assuring absolute compliance with ATSC A/65.

46. PMCM's efforts to implement Section 331 have been regrettably delayed for years already thanks to Commission obstruction. Further delay based on an imaginary policy that contravenes both established technical standards and common experience would reflect further agency disdain for the expressed will of Congress and the directive of the Court. PMCM warned

¹⁶ In an informal meeting with the Bureau staff, PMCM's representatives were advised that, as far as the Bureau is concerned, the Bureau has complied with Section 331 by granting PMCM the authority to broadcast, and questions of cable carriage are in the Bureau's view beyond the scope of Section 331. As the Bureau sees it, Section 331 is immaterial here. PMCM begs to differ. Giving PMCM a broadcast license but then stripping it of the opportunities – including all incidents of cable carriage – accorded other broadcasters is like granting a person citizenship but at the same time denying the rights to vote, to hold a passport or stand for election, which all constitute essential hallmarks of citizenship.

the Court in 2012 that the Commission might act to thwart the mandate of Section 331 even if the Court were to confirm (as it did) the correctness of PMCM's understanding of Section 331. The issuance of an order indefinitely delaying PMCM's right to carriage on any cable system comes dangerously close to deliberate contempt of the Court's order. PMCM urges the Commission to take immediate and unequivocal steps to reverse the Bureau Order and make unmistakably clear that KVVN is to use major channel number 3 and is to be afforded must-carry rights, on Channel 3, at the earliest date permitted under the Commission's rules.

Respectfully submitted,

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DA 14-1029
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Re: Requests to Defer Mandatory Carriage of
KVVV(TV), Middletown Township, New Jersey
FCC File No. BPCDT-20130528AJP
Facility ID No. 86537

Dear Counsel:

This is with respect to the June 12, 2014 letter filed on behalf of Cablevision Systems Corporation ("Cablevision") and the July 11, 2014 letters filed on behalf of Time Warner Cable Inc. ("TWC") and Comcast Cable Communications, LLC ("Comcast") (collectively the "MVPDs" and "Deferral Letters"). The MVPDs request that we issue an order allowing them to defer implementing the must-carry request and channel position election of PMCM TV, LLC ("PMCM") for television station KVVV(TV), digital RF channel 3, Middletown, Township until 90 days from the date of a final decision on the appropriate Program System and Information Protocol ("PSIP") virtual channel for the station.¹ For the reasons set forth below, we grant the MVPD's letter requests.

Background and Pleadings. PMCM filed the above-referenced modification application to relocate KVVV(TV) from Ely, Nevada to Middletown Township after its RF channel 3 was allotted to Middletown Township pursuant to a decision by the U.S. Court of Appeals for the District of Columbia

¹ PSIP channels are also commonly referred to as "virtual" or "major" channels and the parties used the terms interchangeably.

Circuit.² Meredith Corporation (“Meredith”), the licensee of WFSB(TV), RF channel 33, virtual channel 3, Hartford, Connecticut, filed an informal objection to the modification application objecting to PMCM’s future operations on virtual channel 3 because WFSB(TV) had been assigned that channel since 2004. Meredith argued that because the two stations’ noise limited contours have significant overlap, both stations cannot operate on the same virtual channel. Meredith further argued that, under the PSIP Standard adopted by the Commission, KVVN(TV) should be assigned virtual channel 33, which is WFSB(TV)’s RF channel. On April 17, 2014, the Video Division granted PMCM’s application and dismissed Meredith’s informal objection as premature, stating that a station’s virtual channel designation is customarily considered after grant of the license modification application in a separate proceeding that solely addresses the virtual channel designation.³ Meredith filed a timely Petition for Reconsideration and Request for Declaratory Ruling on May 22, 2014, again asserting that KVVN(TV) should be assigned virtual channel 33, which PMCM opposes. Briefing on this matter closed on July 11, 2014 and a decision has not yet been issued.⁴

PMCM notified the MVPDs by separate letters dated June 6, 2014 that KVVN(TV) would commence operation as a new television station in the New York, New York DMA during the week of August 4, 2014.⁵ PMCM elected mandatory carriage of the station’s signal⁶ on all cable systems operated by the MVPDs, their subsidiaries, and affiliates serving communities in the New York DMA, and requested carriage on the systems on channel 3. Under the Commission’s rules, KVVN(TV)’s election takes effect 90 days from the date it was made, which is September 4, 2014.⁷ In addition, cable operators are required to notify customers in writing of any changes in programming services or channel positions a minimum of 30 days in advance of such changes if the change is within control of the cable operator.⁸

In its Deferral Letter, Cablevision states that, while WFSB(TV) is in the Hartford-New Haven DMA, as a result of an FCC market modification its local market also includes Fairfield County, Connecticut, which is in the New York DMA.⁹ According to Cablevision, WFSB(TV) is entitled to carriage on virtual channel 3 on Cablevision’s cable systems serving Fairfield County, and repositioning WFSB(TV) to another channel would cause significant disruptions to its channel lineups and require negotiations with the network or broadcast station that currently operates on the channel to which WFSB(TV) would be moved.¹⁰ Comcast also retransmits WFSB(TV) on channel 3 in cable systems serving Fairfield County, as well as three other counties in the New York DMA.¹¹ TWC states that it owns and operates cable systems serving over one million subscribers in the New York DMA, that these systems offer a variety of different channel lineups, and that “not only is Cable Channel 3 already occupied on the overwhelming majority of these line-ups, but in most instances the programming service

² See *PMCM LLC, TV v. FCC*, 701 F.3d 380 (D.C. Cir. 2012); *Reallocation of Channel 3 from Ely, Nevada to Middletown Township, New Jersey*, Report and Order, 28 FCC Rcd 2825 (Vid. Div. 2013).

³ Letter dated April 17, 2014 from Hossein Hashemzadeh, Deputy Chief, Video Division, to PMCM TV, LLC at http://licensing.fcc.gov/cgi-bin/prod/cdbs/forms/prod/getimportletter_exh.cgi?import_letter_id=49395.

⁴ See Email dated July 14, 2014 from Donald J. Evans, Esq. to Barbara A. Kreisman, Chief, Video Division at http://licensing.fcc.gov/cgi-bin/prod/cdbs/forms/prod/getimportletter_exh.cgi?import_letter_id=51026.

⁵ See Cablevision Deferral Letter at Attachment A.

⁶ See 47 C.F.R. § 76.56(b).

⁷ 47 C.F.R. § 76.64(f)(4).

⁸ 47 C.F.R. § 76.1603(b).

⁹ See *Modification of the Television Market of Television Station WFSB*, Memorandum Opinion and Order, 10 FCC Rcd 4939 (CSB 1995).

¹⁰ Cablevision Deferral Letter at 1-2. According to Cablevision, “because of FCC rules and other restrictions on where programming can be located in a channel line-up, repositioning one network or station often can set off a domino effect of other changes that must be negotiated and accommodated, and some negotiations can be significantly lengthy and contentious.” *Id.* at 2.

¹¹ Comcast Deferral Letter at 2.

currently occupying Cable Channel 3 has been carried on that channel for many years.”¹² The MVPDs assert that they should not be required to negotiate new channel positions for the services that would be displaced by KVVN(TV)’s carriage on cable channel 3, which would result in the displacement of other services and resulting customer confusion, while the question of KVVN(TV)’s virtual channel assignment is pending before the Commission. In order to avoid unnecessary business disruption and customer confusion, they request permission to defer implementing PMCM’s must-carry request until 90 days from the date of a final order on KVVN(TV)’s virtual channel position.

On June 26, 2014, PMCM filed an opposition to Cablevision’s deferral request, arguing, *inter alia*, that its right to mandatory carriage of KVVN(TV) on channel 3 “is so well settled as to require no elaboration here.” PMCM further asserts that KVVN(TV) “currently operates on major channel 3 in Ely, NV,” and that “given the unique circumstances of KVVN’s transition to New Jersey” it would thwart the Court’s mandate to change its PSIP channel.¹³ PMCM states, however, that it is “sensitive to the complications posed by the insertion of KVVN’s channel 3 into Cablevision’s channel line-up” and that it would be willing to accommodate a deferral but that it must be brief “since it is essential that KVVN get on the air with full on-channel carriage prior to the key ratings periods coming up in the fall.”¹⁴

In response, Cablevision states that, while it will implement whatever channel position the Commission orders, its “overriding priority is to minimize disruption for consumers [and] it would create unnecessary confusion and disruption for [the MVPDs] to make immediate changes to their line-ups to accommodate KVVN’s request to be placed on channel 3 when KVVN ultimately may be assigned a different virtual channel, in all or part of the New York DMA.” Cablevision also observes (without taking a position on the merits) that, while PMCM claims that the requested deferral is unnecessary because its right to mandatory carriage on Channel 3 is well settled, “Meredith also has asserted a clear right to Channel 3 [and] FCC databases indicate that both stations are assigned to virtual channel 3, and the stations’ local carriage areas overlap in part (in Fairfield County, CT).” Given these “conflicting mandates,” Cablevision reiterates its request that it be allowed to defer implementing the KVVN(TV) must-carry request and channel position election until 90 days after a final decision.¹⁵

Discussion. Section 1.3 of the Commission’s Rules provides that we can waive our rules “for good cause shown.”¹⁶ We agree with the MVPDs that the public interest will be served by waiving the requirement of Section 76.64(f)(4) that PMCM’s June 6, 2014 election of must-carry status take effect within 90 days of its election. Section 73.682(d) requires digital television broadcast television to comply with ATSC A/65C (“PSIP Standard”).¹⁷ The PSIP Standard is meant to “guarantee that the two-part channel number combinations used by a broadcaster will be different from those used by any other broadcaster with an overlapping DTV service area.”¹⁸ It is undisputed that PMCM and Meredith have conflicting channel placement claims on certain cable systems in the New York DMA and that the matter is currently pending before the Bureau. WFSB(TV) is entitled to mandatory carriage on cable channel 3 in areas where PMCM is also asserting mandatory carriage rights, and the local MVPDs do not have the authority to resolve this conflict. Until this conflict is resolved, however, KVVN(TV)’s virtual channel number may be subject to change and MVPDs cannot ascertain on which channel they will be required to definitively carry the station.

¹² TWC Deferral Letter at 1. See also Cablevision Deferral Letter at 2 (“Given the channel position at issue, it is highly likely that very popular programming networks will be moved, requiring a lengthier and more comprehensive consumer education effort than the usual 30 day notice period”)

¹³ Letter dated June 26, 2014 from Donald J. Evans, Esq. to Marlene H. Dortch, Secretary at 1-2.

¹⁴ *Id.* at 2.

¹⁵ Letter dated July 14, 2014 from Tara M. Corvo, Esq. to Marlene H. Dortch, Secretary at 1-2.

¹⁶ 47 C.F.R. § 1.3.

¹⁷ 47 C.F.R. § 73.682(d) (incorporated by reference, see § 73.8000).

¹⁸ PSIP Standard, Annex B at 1.8.

Under the Commission's rules, cable operators must comply with channel positioning requirements absent a compelling technical reason for not being able to accommodate those requests.¹⁹ In this case, the MVPDs' cable systems are already carrying WFSB(TV) or another station at the channel 3 position and it is not technically feasible to position a second station there as well. Thus, MVPDs cannot carry KVNV(TV) on channel 3 without repositioning WFSB(TV) and possibly other programming services. We acknowledge that delaying the effectiveness of PMCM's must-carry request until after our decision on KVNV(TV)'s virtual channel number may result in PMCM not obtaining cable carriage for its station by the Fall. Nevertheless, the technical impediments and the consumer confusion that will result if MVPDs commence carriage of KVNV(TV) on channel 3 as its virtual channel and we then assign the station a different virtual channel shortly thereafter present serious countervailing considerations. Under these circumstances, we conclude that a waiver of Section 76.64(f)(4) is appropriate, to allow MVPD's to defer carriage of KVNV(TV) until 90 days from the date there is a final decision on the station's virtual channel. The Bureau anticipates that it will be able to issue its decision without lengthy delay.

Conclusion. Accordingly, we HEREBY WAIVE Section 76.64(f)(4) of the Rules to allow Cablevision Systems Corporation, Time Warner Cable Inc. and Comcast Cable Communications, LLC to defer implementing the must-carry request and channel position election of PMCM TV, LLC for television station KVNV(TV), Middletown Township, New Jersey until 90 days from the date of a final decision on KVNV(TV)'s virtual channel.

Sincerely,

William T. Lake, Chief
Media Bureau

cc: Michael D. Basile, Esq.
(Counsel for Meredith Corporation)

¹⁹ See *Implementation of the Cable Television Consumer Protection and Competition Act of 1992*, MM Docket No. 92-259, Report and Order, 8 FCC Rcd 2965, 2988, para. 91 (1993).

Annex B: Additional Constraints on Virtual Channel Table For the U.S. (Normative)

B.1 ASSIGNMENT OF MAJOR CHANNEL NUMBER VALUES FOR TERRESTRIAL BROADCAST IN THE U.S.

The assignment of `major_channel_number` values in the U.S. shall be per the requirements established in this section.

B.1.1 Mandatory requirements for Major Channel Number Values in the Range 2–69

The following provisions assign `major_channel_number` values 2 through 69 uniquely to licensees licensed to broadcast digital ATSC signals and guarantee that the two-part channel number combinations used by a licensee will be different from those used by any other licensee with an overlapping DTV Service Area¹⁸.

- 1) For a licensee with an NTSC license existing at the time it commences digital service, the `major_channel_number` for the virtual channels controlled by the licensee shall be set in the TVCT to the NTSC RF channel number existing at the time it commenced digital service. For example, assume a broadcaster who has an NTSC broadcast license for RF channel 13 is assigned RF channel 39 for digital ATSC broadcast. That broadcaster is required to use `major_channel_number` 13 for identification of the analog NTSC channel on RF channel 13, as well as the digital virtual channels it is controlling on RF channel 39.
- 2) For a new licensee without an existing NTSC license at the time it commenced digital service, the `major_channel_number` for the digital virtual channels controlled by the licensee shall be set to the FCC-assigned RF channel number for ATSC digital TV broadcast. For example, assume a broadcaster who has no NTSC broadcast license applies and receives a license for digital ATSC broadcast on RF channel 49. That broadcaster is required to use `major_channel_number` 49 for identification of the digital virtual channels that it is controlling on RF channel 49.
- 3) If the RF channel assigned to a licensee for digital ATSC broadcast is changed for any reason, the `major_channel_number` used by that licensee shall not change.
- 4) If, after February 17, 2009, an RF channel previously allotted for NTSC in a market is assigned to a newly-licensed DTV licensee in that market, the newly-licensed DTV licensee shall use, as its `major_channel_number`, the number of the DTV RF channel originally assigned to the previous NTSC licensee of the assigned channel.
- 5) The following requirement establishes a limited exception to mandatory requirements #1 through #4 above. If a licensee owns or controls broadcast licenses for two or more different RF channels having overlapping Service Areas, a common value of `major_channel_number` may be used for all services on all channels. In this case, the value chosen for the common `major_channel_number` shall be as determined in mandatory requirements 1-4 above for any one of the RF channels. The values in the

¹⁸ This term is defined in 47 CFR §73.622(e) [8].

minor_channel_number fields shall be partitioned to ensure that there is no duplication of the two-part channel number in the DTV Service Area, including the overlapping DTV Service Areas of other licensees using that same major_channel_number.

- 6) The two-part channel numbers for other broadcasts may be included in the TVCT of the DTV transport stream, provided that the channel_TSID and source_id are exactly associated with the two-part channel number combinations used by the referenced licensee and there is no duplication with those used by any licensee whose DTV Service Area overlaps with the emitting station's DTV Service Area.
- 7) A licensee may include in the transmitted multiplex programming originating from a different licensee. In this case, the major/minor channel numbers of the original broadcast may be used to label those services, as long as the major/minor channel number combinations are coordinated in the local Service Area to avoid conflicts in the channel numbers. The business coordination process for this requirement is beyond the scope of this document.

B.1.2 Major Channel Number Values in the Range 70–99

Values for major_channel_number from 70 to 99 may be used to identify groups of digital services carried in an ATSC multiplex that the licensee wishes to be identified by a different major channel number. Values 70 through 99 must be unique in each potential receiving location or the receiver will not be able to correctly select such services. For example a local licensee transmitting community college lectures in its bit stream may want to use a major_channel_number different than its own major_channel_number for the virtual channel carrying the lectures. The assessment of the feasibility of using this capability, as well as the coordination process for assignment of these major_channel_number values is beyond the scope of this document.

B.1.3 Major Channel Numbers for Translated Signals

For a licensee's signal carried by a digital TV translator, the major/minor channel numbers shall remain the same as the original broadcast station unless the major channel conflicts with a licensee operating in the Service Area of the translator. In that case, the translator shall change the major number to a non-conflicting number. Note: 47 CFR §74.790 (f) [23] may apply.

B.2 REQUIREMENT TO TRANSMIT ANALOG TRANSMISSION SIGNAL ID

- a) Broadcasters which reference an NTSC signal by inserting a channel_TSID in a VCT shall cause insertion of an analog Transmission Signal ID within the VBI of each referenced NTSC signal per CEA-608 [5]. Refer to Section D.10 for a discussion of the use of the analog Transmission Signal ID.

CERTIFICATE OF SERVICE

I, Evelyn Ojea, hereby certify that on this 25th day of August, 2014, I caused copies of the foregoing "Application for Review" to be placed in the U.S. Postal Service, first class postage prepaid, or hand-delivered (as indicated below) addressed to the following persons:

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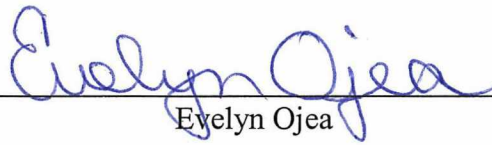
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