

the latest of either the end of 2006 or the date by which 85% of the television households in a licensee's market are capable of receiving the signals of digital broadcast stations. We now seek comment on establishing new dates for maintaining interference protection for the unserved portions of both the replication and maximization service areas of DTV stations on channels 2–51.

7. For DTV channels within the core spectrum, we propose to set new replication and maximization protection dates close to the end of the transition: for the top-four network affiliates (*i.e.*, ABC, CBS, Fox and NBC) in markets 1–100—July 1, 2005; and for all other commercial DTV licensees as well as noncommercial DTV licensees—July 1, 2006.

8. We seek comment generally on the appropriateness of these dates. We also invite commenters to propose alternative approaches for establishing interference protection deadlines, such as giving stations a certain amount of time (*e.g.*, 24 months) after the station commences digital service or after adoption of the Report and Order (“*R&O*”) in this proceeding, whichever is later, to fully replicate or maximize, or establishing a replication/ maximization deadline for each market based on when that market reaches a specified digital service penetration level.

9. If a station fails to construct and operate facilities that fully replicate its NTSC service area or provide signal coverage over an authorized maximized service area by the interference protection deadline(s) we will establish in this proceeding, we seek comment on how the Commission should dispose of any construction permits or applications for replication or maximization facilities at that time. Should applications for facilities in excess of those in actual operation by the station be dismissed? How should the Commission treat authorizations for facilities not being fully used by the station? For example, a station has a construction permit for facilities that would serve a larger area than facilities it is operating pursuant to Special Temporary Authority. Should such a construction permit be modified to specify the facilities in actual operation? In addition, we invite comment on how the Commission should treat the spectrum use opportunity that would be created after the interference protection deadline(s). Who should be permitted to file an application for this spectrum? Should any applications for this spectrum be subject to competing applications? Our inclination is to restrict any station that has failed to fully replicate or construct

its authorized maximization facilities by the applicable deadline from filing an application to expand coverage for a certain period of time in order to allow other existing or new stations, including Class A eligible LPTV stations on out-of-core channels, to apply to use this spectrum. If we were to adopt this approach, how long should the restriction on the filing of expansion applications by stations that did not fully replicate or maximize by the deadline last? Any decision we reach in this proceeding regarding future licensing of this spectrum will be consistent with 47 U.S.C. 309(j).

10. Finally, we seek comment on whether we should adopt an intermediate signal coverage requirement beyond a broadcaster's current obligation to cover its community of license and in addition to the ultimate “use-or-lose” deadline for full replication or maximization. In the *1st MO&O*, the Commission predicted that the “requirement that broadcasters serve their community of license will ensure that, for most stations, the majority of their analog service populations will receive initial digital service.” We seek comment on whether this predictive judgment has been borne out in practice. For instance, we seek comment on whether some of the larger cities in which stations can operate under low-power STAs have large suburban populations that may not be served by a signal that only covers a station's community of license. If there are significant numbers of consumers not being served by stations operating under low-power STAs, we seek comment on what actions, if any, the Commission should take. Should the Commission establish a deadline by which time stations must provide DTV service within the entire area of their analog “city-grade” coverage contour or their Grade A coverage? Yet another alternative would be to require broadcast stations to deploy transmission equipment that is capable of being upgraded to serve broader coverage areas (*e.g.*, their analog Grade “B” coverage), but permit the stations themselves to determine when any intermediate power increases occur prior to the full replication “use-or-lose” date. In general, our goal is to ensure that the maximum number of consumers is able to receive digital television as quickly as possible while providing broadcasters a realistic timetable for increasing to full power.

Band-Clearing Arrangements

11. In the *1st MO&O*, we temporarily deferred the deadline for loss of interference protection for unserved

areas for broadcasters involved in a band-clearing arrangement that are left with a DTV single-channel allotment. We stated that we will continue to protect throughout the course of the transition the analog TV service area of stations that do not have a paired DTV channel, either because they were not assigned a paired DTV channel or because they elect voluntarily to relinquish their paired DTV channel and convert to single channel analog operation as part of the 700 MHz band clearing, as long as the stations continue to operate in an analog mode.

12. We stated that our intention was to provide broadcasters involved in band-clearing with the same treatment as other broadcasters in terms of our DTV replication policy. We also said that, in our next periodic review, we would establish a new replication protection deadline for these broadcasters within the same timeframe as that established for replication and maximization for other broadcasters. We hereby seek comment on the timeframe needed and appropriate for broadcasters involved in band-clearing proposals to replicate their service area once commencing digital operation.

Interference Protection of Analog and Digital Television Service in TV Channels 51–69

13. We seek comment on whether we should adopt the same or different replication and maximization interference protection deadlines for stations operating on TV channels 52–69 (698–806 MHz, also referred to as the “700 MHz band”) as for stations operating on core channels. In order to reclaim and relicense channels 52–69 in accordance with statutory mandate, the Commission is relocating television operations in this spectrum to the core spectrum (TV channels 2–51), and has reallocated the 698–806 MHz band to other services. During the transition to digital broadcasting, incumbent broadcasters are permitted to continue to operate in the 698–806 MHz band. Licensees of new public safety, commercial wireless, and other services are permitted to operate in the band prior to the end of the transition, provided they do not interfere with incumbent analog and digital broadcasters.

1. Definition of “Actual” Broadcast Parameters Under Sections 90.545(c)(1)(ii) and 27.60(b)(1)(iii)

14. A number of the interference protection issues raised herein with respect to the 698–806 MHz band relate to the interpretation of the alternative protection criteria for wireless operators