

and noncommercial television licensees still have not yet been granted an initial DTV CP. To date, these applicants have not been required to construct DTV facilities pending action on their outstanding DTV applications.

25. To ensure that all licensees that have been awarded digital spectrum begin to provide digital service, we propose to require that all such television licensees that have filed an application for a digital CP with the Commission that has not yet been granted must commence digital service pursuant to special temporary authority ("STA") within one year from adoption of the *R&O* in this proceeding. Within this time frame, these applicants would be required to request an STA from the Commission and to construct at least the minimum initial facilities required to serve their community of license, as specified in the policy outlined in the *1st MO&O*. We request comment on this proposal. We also request comment on whether the channel election and interference protection deadlines adopted in this proceeding should apply to these licensees and, if not, what other deadlines would be appropriate.

Noncommercial Educational Television Stations

26. Noncommercial television broadcasters are scheduled to complete construction of their digital stations and commence digital service by May 1, 2003. We invite comment on whether noncommercial broadcasters that are not already airing a digital signal anticipate they will meet the May 1, 2003 construction deadline. For any station that does not anticipate meeting the deadline, what obstacles are preventing completion of construction? We also invite comment generally on what steps, if any, the Commission should take to assist noncommercial stations in the transition to DTV. For example, should the financial hardship standard for grant of an extension of time to construct a digital television station be applied differently to noncommercial licensees?

7. Simulcasting

27. In the DTV *5th R&O*, we adopted rules requiring DTV licensees to simulcast 50% of the video programming of their analog channel on their DTV channel by April 1, 2003. This requirement increases to a 75% simulcast requirement in April 2004, and a 100% requirement in April 2005. We seek comment on whether we should retain, revise or remove the simulcast requirement, how to define simulcasting, and whether the existing dates are appropriate. What extent of program duplication should be required

to fulfill simulcasting obligations? Does the ultimate requirement of 100% simulcasting other than at the very end of the transition create disincentives for broadcasters to innovate? If broadcasters have a market-based incentive to simulcast and currently are simulcasting 100% of their analog programming on their digital channel, is a regulatory requirement to simulcast necessary? Is the simulcasting requirement causing broadcasters to forego creative uses of digital technology? Would something less than a 100% simulcast requirement be sufficient to protect analog viewers while allowing for innovation on the DTV channels? If maintaining some simulcast obligation is appropriate, we seek comment on whether we should revise the current dates for the phase-in of simulcast requirements.

28. We propose a definition of simulcasting in the DTV context as follows: Within a 24-hour period, the broadcast on a digital channel of the same programming broadcast on the analog channel, excluding commercials and promotions and allowing for enhanced features and services.

We request comment on this proposed definition. We also seek comment on how simulcast requirements and the definition of "simulcasting" relate to the substantial duplication decisions in the must carry portions of the Act.

Effect on Prime Time Broadcasting Requirements

29. If we decide to eliminate or change the simulcasting requirements, we must adjust the digital broadcast schedule requirements that are currently pegged to the simulcast requirements. We propose that, if we eliminate or reduce the simulcasting requirements in § 73.624(f), we amend § 73.624(b)(1) to require DTV stations subject to the May 1, 2002, or May 1, 2003, construction deadlines to air, by April 1, 2003, a digital signal for an amount of time equivalent to 50% of the amount of time they provide an analog signal. The digital signal must be aired during prime time hours. This minimum digital operation requirement would increase to 75% on April 1, 2004 (requiring airing of a digital signal for an amount of time equivalent to at least 75% of the amount of time the station airs an analog signal), and to 100% on April 1, 2005. We seek comment on this proposal and invite alternatives as well.

Section 309(j)(14)

30. Section 309(j)(14)(A) of the Communications Act requires the Commission to reclaim the 6 MHz each broadcaster uses for transmission of analog television service by December

31, 2006. Congress recognized, however, that not all stations will convert to DTV at the same time. Thus, "to ensure that a significant number of consumers in any given market are not left without broadcast television service as of January 1, 2007," Congress required the Commission in section 309(j)(14)(B) to grant extensions to any station in any television market if one or more of three conditions exist. We review the language of section 309(j)(14) and invite comment on how we should interpret certain portions of that statutory provision. We also seek comment on establishing rules and filing deadlines governing how and when extension requests will be made.

Filing of Extension Requests

31. Section 309(j)(14)(B) provides that the Commission shall extend the date by which stations must cease analog service for qualifying stations that request an extension. We intend to develop a form to be used by stations to request an extension under this provision. We invite comment on when stations seeking an extension should be required to file their extension request. We invite comment on the period of time for which extensions should be granted. We also invite comment on whether the Commission may grant a blanket extension under section 309(j)(14)(B) to all stations in a market or nationally if the Commission finds that the criteria for return of analog spectrum have not been met. What findings would the Commission need to make in order to grant a blanket extension?

Definition of Television Market

32. Under section 309(j)(14)(B), the Commission must consider whether any one of the three conditions for an extension exist in the requesting station's "television market." For purposes of applying section 309(j)(14)(B), we invite comment on how we should define "television market." One option would be to define "television market" as the designated market area or DMA, as defined by Nielsen Media Research, in which the television station requesting the extension is located. Another option would be to define "television market" as the requesting station's Grade B contour.

33. Use of DMAs to define the applicable market may be more consistent with the language of section 309(j)(14), which requires the Commission to grant an extension to "any station that requests such an extension in any television market." This language seems to contemplate that