

each market will contain more than one television station, as is generally true of DMAs. The Grade B contour of any station requesting an extension, in contrast, is generally unique for each station, and therefore contains only one station. A Grade B test may also be more difficult to administer as market data, including information about digital-to-analog converter technology and the number of television households with digital television reception capability, would have to be compiled for the area within each requesting station's Grade B contour, rather than DMA-wide.

34. Use of DMAs to define the applicable market for purposes of section 309(j)(14)(B) would ensure that transition progress throughout the DMA is considered in determining whether the criteria for extension have been met. As parts of the United States, particularly in rural areas, do not lie within the Grade B contour of any full-power television station, a Grade B test would not consider transition progress in these areas before cessation of analog service.

35. If we define the applicable market by reference to a station's Grade B contour, we invite comment on whether we should refer to the station's analog Grade B or the equivalent digital contour. In addition, does the market of a station requesting an extension under section 309(j)(14) include only the requesting station's Grade B contour, or also the Grade B contour of any TV translator retransmitting the requesting station's signal?

36. The Grade B contour of many stations reaches more than one DMA. Under a DMA-only market test, a station could be denied an extension of its analog license without consideration of the status of the transition in a neighboring DMA where the station may have a significant number of viewers. To address this situation, another option would be to adopt a modified DMA market test that considers viewers in adjacent DMAs in situations where stations have a significant number of viewers in those DMAs. For example, where a station requesting a transition extension has a significant number of viewers in a DMA other than its designated DMA ("home DMA"), we could require that both DMAs meet the statutory criteria for the transition in section 309(j)(14)(B). We request comment on this approach.

37. How we define the "market" is important in applying each of the conditions for an extension under section 309(j)(14)(B). We request comment on the impact of a DMA, modified DMA, or Grade B market definition on the availability of

extensions under each of these conditions.

Network Digital Television Broadcast Test

38. Under the first ground for an extension under section 309(j)(14)(B), the Commission must grant an extension if one or more of the stations in the market that are licensed to or affiliated with one of the four largest national television networks is not "broadcasting a digital television service signal, and the Commission finds that each such station has exercised due diligence and satisfies the conditions for an extension of the Commission's applicable construction deadlines for digital television service in that market." We invite comment on how we should interpret this provision. We read the language of section 309(j)(14)(B)(i) to require that all stations in a market licensed to or affiliated with a top-four network must be broadcasting in digital before analog service is required to cease in the market, even if a top-four network has more than one affiliate in the market. We request comment on this view. Should we consider a station that is broadcasting a digital signal pursuant to a DTV STA, and providing service in compliance with the Commission's minimum initial digital television construction requirements, to be "broadcasting a digital television service signal" for purposes of this provision? We propose that a station not meeting such minimum initial DTV operating requirements would not be considered to be "broadcasting a digital television signal" within the meaning of this provision. Thus, extensions would be available under section 309(j)(14)(B)(i) in any market where a top four network affiliate is not providing digital service in accordance with at least the Commission's minimum requirements for coverage of the community of license and hours of operation. We request comment on this proposal.

39. Alternatively, we could require that a station be providing service to the entire area encompassed within the station's DTV allotment in order to be considered "broadcasting a digital television service signal" in the market under section 309(j)(14)(B)(i). To ensure that stations not postpone replication to delay return of analog spectrum, we propose that if we require service to the full replication area under section 309(j)(14)(B)(i), we would not consider lack of replication to constitute lack of service after the replication protection deadline adopted in this proceeding.

Converter Technology Test

40. Under the second ground for an extension under section 309(j)(14)(B), the Commission must grant an extension to a requesting station if the Commission finds that digital-to-analog converter technology is not "generally available" in the market. For purposes of section 309(j)(14)(B)(ii), we propose to define as a "digital-to-analog converter" units that are capable of converting a digital television broadcast signal to a signal that can be displayed on an analog television set. We invite comment on this definition. Should we consider as a "digital-to-analog converter" a unit that is not capable of displaying in analog format signals originally broadcast in all digital formats? We also request comment on how we should interpret the phrase "generally available" under section 309(j)(14)(B)(ii). For example, should we require only that digital-to-analog converter boxes be available for sale at retail outlets in the market or for sale or lease from cable operators or satellite providers? How widespread must the availability be to be considered "generally available"?

15 Percent Test

41. Section 309(j)(14)(B)(iii) provides for a third ground for extension for markets that do not qualify under section 309(j)(14)(B)(i) or (ii). Section 309(j)(14)(B)(iii) sets forth a two-part test. The first prong of the test, described in section 309(j)(14)(B)(iii)(I), is met where 15 percent or more of the television households in the market do not subscribe to an MVPD (as defined in 47 U.S.C. 602) that "carries one of the digital television service programming channels of each of the television stations broadcasting such a channel in such a market."

42. Read literally, section 309(j)(14)(B)(iii)(I) appears to require that an MVPD, such as a cable system, must be carrying all of the television stations broadcasting a digital channel as a first step to satisfy this prong of the test. Read thus, if one or two digital television stations in a market are not carried by a cable or satellite provider (e.g., because the station is not carried voluntarily and is not eligible for mandatory carriage), then the criterion is not met. In almost all DMAs, there are stations that are not entitled to must-carry on cable systems in the DMA and that are not carried by the systems voluntarily. Did Congress intend that this prong would be very rarely satisfied in a market?

43. We invite comment on whether there is a more flexible interpretation of