

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)
)
Promoting Broadcast Internet Innovation through) MB Docket No. 16-142
ATSC 3.0)
)

**REPLY COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS**

I. INTRODUCTION AND SUMMARY

The National Association of Broadcasters (NAB)¹ hereby replies to comments in response to the Commission’s Public Notice seeking comment on NAB’s Petition for Declaratory Ruling and Petition for Rulemaking in the above-referenced proceeding.²

The Commission’s approval of the voluntary use of the ATSC 3.0 transmission standard (Next Gen TV) set the stage for dramatically improved television service for viewers. Broadcasters have begun to deploy Next Gen TV within their existing channel allotments to improve television service for viewers with interactivity, ultra-high-definition video and more. In recent months, broadcasters have launched ATSC 3.0 service in 24 markets, with dozens of additional launches planned in 2021.

¹ The National Association of Broadcasters (NAB) is the nonprofit trade association that advocates on behalf of free local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

² *Media Bureau Seeks Comment on Petition for Declaratory Ruling and Petition for Rulemaking of the National Association of Broadcasters Seeking to Clarify Treatment of Multicast Streams Under the Next Gen TV Local Simulcasting Rules*, Public Notice, MB Docket No. 20-145, FCC 20-1394 (Nov. 24, 2020) (Public Notice).

In this proceeding, broadcasters simply seek to close a regulatory gap that the transition has exposed by mirroring the existing licensed framework for multicast streams, which are not required to be simulcast under the Commission's rules. Initial comments reflect broad support for this general proposition, with one exception. One commenter suggested that NAB's proposal could potentially be subject to abuse by broadcasters seeking to circumvent ownership or attribution rules.³ While NAB does not agree with these concerns, NAB does not object to the new rules adopted in this proceeding expressly limiting any individual station to arranging for the hosting of content that station itself could transmit on its own facilities, as explained in more detail below. NAB also provides further information and examples concerning the types of arrangements that broadcasters may use during the transition.

The clarification and rule changes NAB seeks in this proceeding are ministerial in nature and intended only to ensure that the Commission has a consistent regulatory framework as the Next Gen TV rollout continues. We hope the Commission will move forward promptly with a Notice of Proposed Rulemaking to develop a full record and finalize rules to ensure this consistent treatment.

II. ALIGNING THE COMMISSION'S TREATMENT OF MULTICAST STREAMS WITH PRIMARY SIMULCAST SIGNALS SERVES THE PUBLIC INTEREST

As NAB outlined in its petition in this proceeding, broadcasters moving forward with ATSC 3.0 deployments may be forced to enter into complex sharing arrangements as they seek to improve their service to viewers in the same spectrum footprint.

³ Comments of the American Television Alliance at 2-5, MB Docket No. 16-142 (Dec. 28, 2020) (ATVA Comments).

For example, if four stations in a market are partnering to transition to ATSC 3.0, the transition might commence with one station transmitting in ATSC 3.0 as the market “host” while three stations remain in ATSC 1.0. The station hosting the ATSC 3.0 signal must arrange for the simulcast of its primary video stream in 1.0 but may also want to arrange for the transmission of its existing 1.0 multicast streams. It is possible, indeed likely, that no single ATSC 1.0 station could accommodate both the ATSC 3.0 host station’s primary video stream as well as its multicast streams. The 3.0 host station’s only option may be to partner with *multiple* stations to preserve all of its program streams.

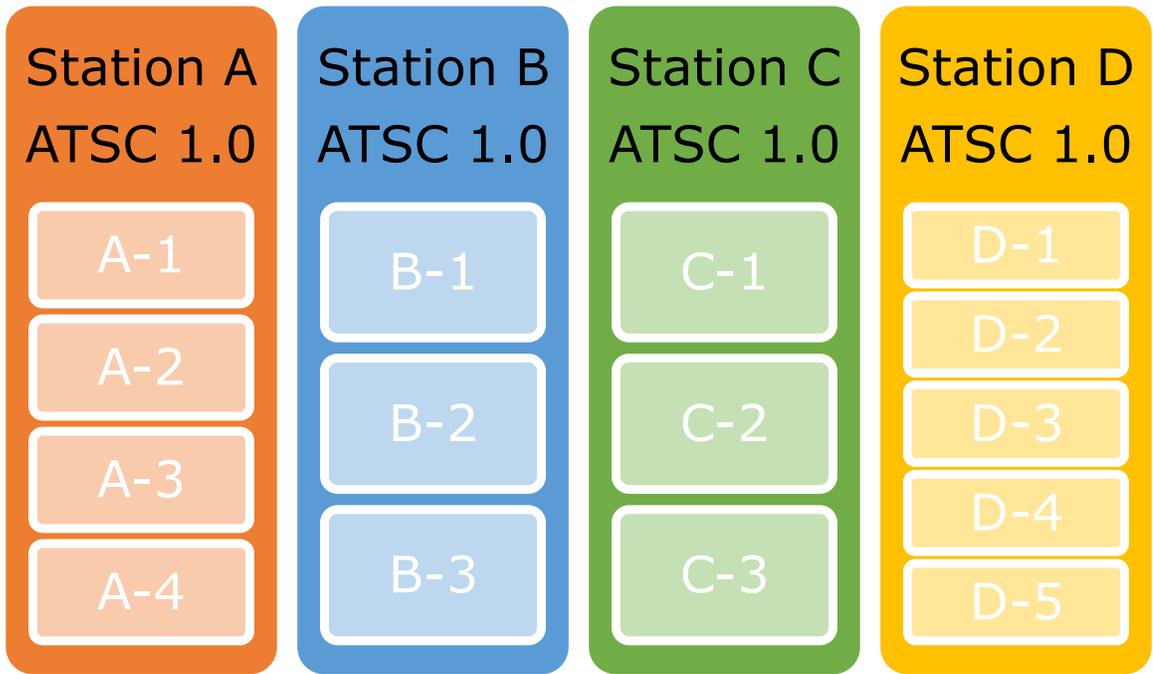


Figure 1: Pre-Transition Channel Plan Example

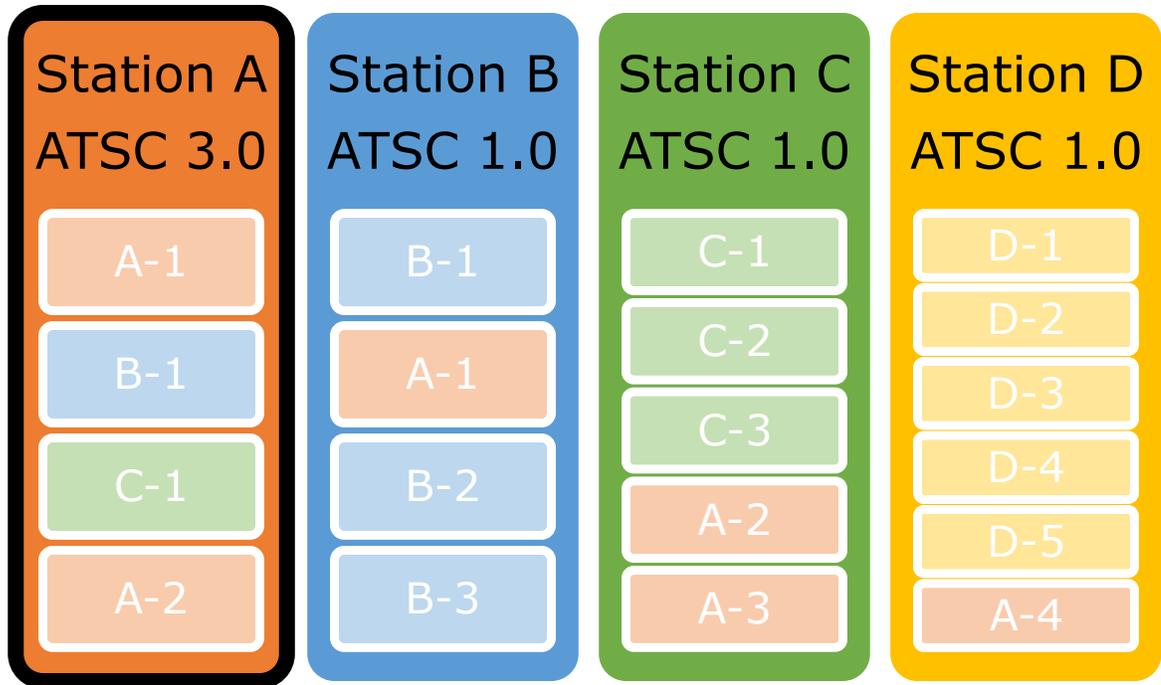


Figure 2: Early Transition Channel Plan Example

Similarly, in a case where there are multiple 1.0 stations and multiple 3.0 stations in a mature 3.0 market, a single 1.0 station may need more than one 3.0 station partner to carry all of its programming, depending on the capacity demands of each 1.0 station's specific programming and the capacity demands of 3.0 partners' programming.

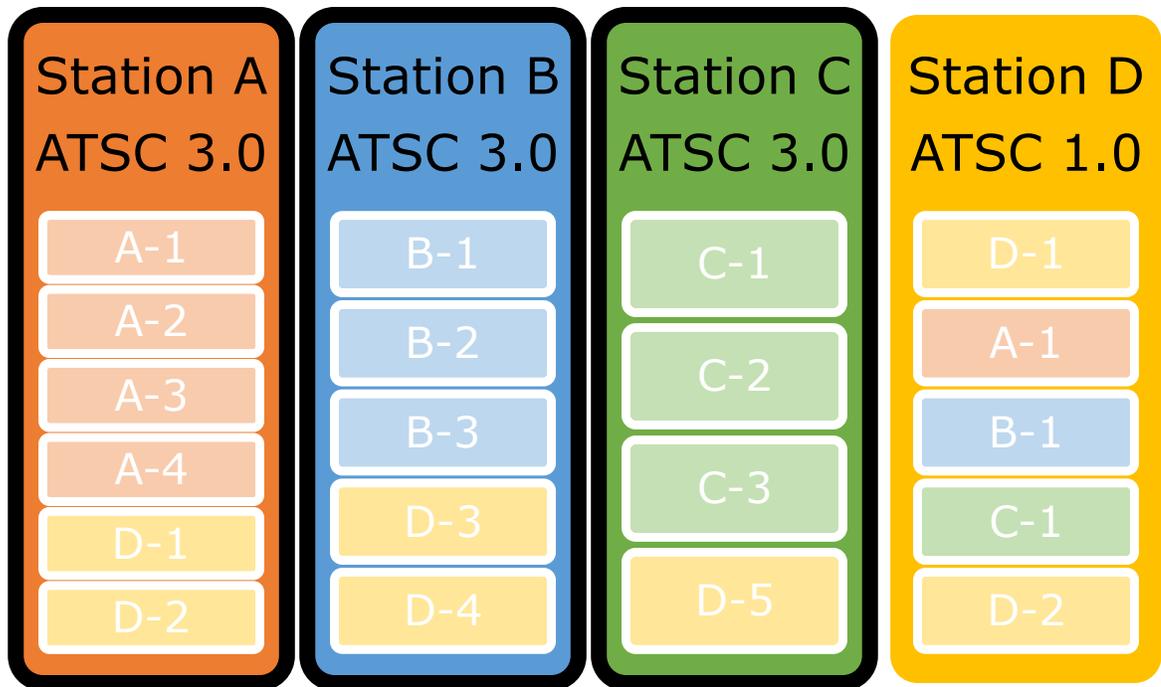


Figure 3: Late Transition Channel Plan Example

NAB believes that both of the above scenarios are permissible under the current rules, which contemplate that stations may partner with “one or more” other stations to comply with the simulcasting requirement.⁴ To create more certainty, however, we ask the Commission to declare that such multi-station arrangements are indeed currently permissible.

It is also important to recognize that, as the transition unfolds, stations may not have capacity to continue to air all multicast streams in both ATSC 1.0 and ATSC 3.0 and may need to make additional accommodations. For example, in the scenario where there are several ATSC 1.0 stations and one ATSC 3.0 station, the ATSC 3.0 station may not have the capacity to simultaneously host all of the streams being transmitted by three ATSC 1.0 stations signals in 3.0 while also offering its own multicast streams on its 3.0 station. While ATSC 3.0 has greater channel capacity for programming than ATSC 1.0, the capacity is not infinite. The

⁴ 47 CFR § 73.3801(a).

enhanced services Next Gen TV will allow, such as ultra-high-definition video, can greatly reduce the amount of residual capacity to carry multicast streams. Therefore, the ATSC 3.0 station may be unable to provide all of the multicast streams it provided prior to the transition on its ATSC 3.0 signal if it is also going to carry ATSC 3.0 simulcasts of its partners' ATSC 1.0 signals and provide enhanced services to entice viewers to upgrade. However, to continue to provide the programming the station is currently offering via ATSC 1.0 multicasts during the transition, the ATSC 3.0 station may seek to arrange for multicast carriage on one or more of its partner stations, without carrying those streams on its own ATSC 3.0 signal.

Likewise, as the transition progresses, a station serving as an ATSC 1.0 host once most of its partners have transitioned to ATSC 3.0 may find that it is no longer able to continue to provide its multicast streams on its own facility. It may therefore seek placement of its multicast streams on its ATSC 3.0 partners without continuing to carry those streams on its own signal.

In both of these scenarios, the transitioning stations would not technically be "simulcasting" the programming as there is not enough capacity to do so, but this is programming the station would be carrying on its own facilities *but for* the capacity constraints caused by the need to transition to a new technology without additional spectrum. The Commission should promptly commence a rulemaking proceeding to permit such arrangements under the same licensed structure currently in place for simulcast programming during the ATSC 3.0 transition.

III. THE COMMISSION CAN READILY ADDRESS CONCERNS ABOUT POTENTIAL LOOPHOLES

One commenter suggested that NAB's proposal could be subject to abuse by broadcasters who would seek access to more capacity than they would otherwise have on their own facilities, effectively flouting the FCC's ownership and attribution rules.⁵

As an initial matter, NAB submits that this concern is wholly speculative and extraordinarily unlikely in practice. The proposed scenario would involve one station convincing its *competitors* to provide it with a market advantage. There is no obvious reason why any competitor would agree to this.

Nonetheless, the Commission can easily address this concern by limiting the potential scope of hosting arrangements. In particular, we suggest the Commission adopt a rule providing that, in arranging for the hosting of its programming, no individual broadcaster shall partner with other stations to host, in the aggregate, more programming than such station could broadcast on its own facilities based on the then-current state of the art for television broadcasting as evidenced by other television stations then operating with the same standard. Thus, for example, a station that is transitioning to ATSC 3.0, and is partnering with one or more ATSC 1.0 stations to preserve its content in ATSC 1.0, could only arrange for the hosting of content that the station would be able to transmit using its own facilities if it were not converting to ATSC 3.0.

NAB believes this entirely resolves the lone stated objection to the proposal. Of course, NAB looks forward to working with the Commission and other stakeholders in this proceeding to develop workable rules in the public interest. We urge the Commission, however, not to

⁵ ATVA Comments at 2-5.

entertain requests to expand the scope of this proceeding to indulge attempts at regulatory arbitrage by the cable lobby.

IV. CONCLUSION

NAB urges the Commission to move forward with a Declaratory Ruling clarifying that broadcasters may partner with multiple stations for the hosting of simulcast multicast streams as well as with a Notice of Proposed Rulemaking proposing rules allowing the hosting of multicast streams as needed during ATSC 3.0 deployments regardless of whether those streams are simulcast.

Respectfully submitted,

**NATIONAL ASSOCIATION OF
BROADCASTERS**
1 M Street, SE
Washington, DC 20003
(202) 429-5430



Rick Kaplan
Patrick McFadden
Alison Neplokh
Robert Weller

January 25, 2021