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

In the Matter of

Promoting Broadcast Internet Innovation through ATSC 3.0

MB Docket No. 20-145

CTIA REPLY COMMENTS

CTIA respectfully submits these reply comments in response to the Notice of Proposed Rulemaking ("NPRM") seeking comment on the extent to which the Federal Communications Commission ("Commission") should clarify or modify its rules to promote the deployment of Broadcast Internet services as part of the transition to ATSC 3.0 in the above-captioned proceeding.2

I. INTRODUCTION AND SUMMARY.

CTIA welcomes this opportunity to participate in the continuing dialogue over the implementation of the ATSC 3.0 standard and urges the Commission to implement necessary rule modifications to promote complementary wireless broadband services consistent with the public interest. Commission rules allowing for flexible spectrum use and for consumer demand to drive technology and innovation have allowed the U.S. wireless industry to lead the world in the delivery of wireless broadband. As the Commission moves forward in this proceeding, it

1 CTIA – The Wireless Association® (“CTIA”) (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association’s members include wireless carriers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry’s voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry’s leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

should ensure that a consistent regulatory framework applies to analogous services, including any new Broadcast Internet services that the ATSC 3.0 transition enables. In addition, CTIA agrees with comments that consumer demand should drive adoption of ATSC 3.0 receiver technology in mobile devices, rather than any government mandate.

II. THE COMMISSION SHOULD ENSURE THAT ITS TREATMENT OF BROADCAST INTERNET SERVICES IS CONSISTENT WITH THE REQUIREMENTS OF THE COMMUNICATIONS ACT.

The NPRM raises several critical issues that the Commission must address to comply with the Communications Act (“Act”) and, more broadly, to ensure parity in regulation between like services. In particular, the Act requires the Commission to set and collect fees from licensees using broadcast spectrum for ancillary services and to apply a regulatory framework to ancillary and supplementary services offered by broadcasters that is consistent with any analogous regulated services. The Commission should revisit its ancillary and supplementary services rules as applied to Broadcast Internet services to ensure its fees and other regulations provide regulatory parity and reflect broadcasters’ evolving business ambitions.

First, the Commission is required by the statute to: (1) collect fees from any and all licensees using broadcast spectrum for ancillary or supplementary services; (2) design those fees to recover for the public a portion of the value of the spectrum resource made available for commercial use and to avoid unjust enrichment; (3) recover for the public an amount that, to the extent feasible, equals but does not exceed that amount that would have been recovered at

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4 See generally BIA Advisory Services, ATSC 3.0 DATA LANDSCAPE: OPPORTUNITY ASSESSMENTS FOR LOCAL TV BROADCASTERS, at 3 (Feb. 2018) (ATSC 3.0 “is a broadcast TV standard that makes native use of the Internet Protocol (IP) in its transmissions and supports a dedicated return channel. With these capabilities, local TV broadcasters gain an important seat at the data landscape table to develop and scale a variety of data-related business and service opportunities.”), https://nabpilot.org/wp-content/uploads/2018/06/BIAK-NAB-Pilot-Data-Services-Landscape-Report-Feb2018f.pdf.
auction; and (4) update the value of fees collected over time. Accordingly, the NPRM seeks comment on whether the Commission should clarify or modify the rules applicable to the provision of feeable ancillary and supplementary services, such as the amount and method of calculating the fee or the reporting requirements, given the new potential uses of spectrum capacity to provide ancillary and supplementary offerings through ATSC 3.0 technologies.

As noted by CTIA in prior comments, the market for wireless services has evolved considerably since the Commission set the fee for ancillary and supplementary uses of broadcast spectrum nearly two decades ago. Further, the Commission has an unambiguous statutory obligation to collect fees from broadcasters that choose to lease their spectrum for ancillary or supplementary services. Therefore, the Commission should take this opportunity to revisit, in accordance with statutory requirements, its ancillary and supplementary services rules to ensure that those fees are set to ensure regulatory parity and reflect broadcasters’ evolving business ambitions. As noted above, any reevaluation of the annual fee must be based on the statutory requirements, including an economic study of the auction value of the relevant spectrum. There is no policy or legal justification to depart from the statutory standard.

6 NPRM at 5927-28 ¶ 23.
7 See Comments of CTIA, GN Docket No. 16-142, at 9 (filed May 9, 2017); see also Comments of CTIA, GN Docket 20-60, at 3 (filed Apr. 27, 2020) (noting “American consumers increasingly live a mobile-first lifestyle, using their wireless devices in nearly every aspect of their daily lives. In the past five years, the number of wireless subscribers has increased more than 25 percent and the average American spends more than five hours on their smartphone per day.”).
10 47 U.S.C. § 336(e)(2)(B); see NCTA Comments at 4; American Television Alliance Comments at 1-2.
In addition to revisiting its fee structure, the Commission should continue to assess new use cases that ATSC 3.0 enables over broadcast spectrum as they evolve to ensure a consistent regulatory framework across analogous services. “Broadcast Internet” is not yet a defined term, and it is unclear how ATSC 3.0 enabled use cases will evolve given that the new standard is yet to be deployed in most markets. However, broad arguments that Broadcast Internet services are not “analogous” to other mobile wireless services simply because they are limited to one-way or one-to-many services should be rejected.  

Similarly, suggestions by some commenters that the Commission should decline to impose broadcast television regulatory requirements on Broadcast Internet services, while simultaneously arguing that the Commission should also decline to apply wireless service rules to those services should be rejected as overly broad. The Act stipulates that the Commission shall “apply to any other ancillary or supplementary service such of the Commission’s regulations as are applicable to the offering of analogous services by any other person.” Therefore, the Commission should make clear that it will continue to assess Broadcast Internet use cases as they evolve, and will ensure consistent regulatory treatment to the extent that broadcast licensees use broadcast spectrum to offer services analogous to other Commission-regulated services.

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12 See Comments of Pearl TV, MB Docket No. 20-145, at 2-3 (filed Aug. 17, 2020); Public Media Group Comments at 8.

13 See Public Media Group Comments at 8; Comments of National Association of Broadcasters, MB Docket No. 20-145, at 5 (filed Aug. 17, 2020).

III. CONSUMER DEMAND SHOULD DRIVE ADOPTION OF ATSC 3.0 IN MOBILE DEVICES, RATHER THAN ANY REGULATORY MANDATE.

CTIA agrees with CTA that the Commission’s voluntary approach of transitioning to a new technology without equipment mandates is working and should not be altered.\(^\text{15}\) Notably, the Commission has already recently declined to impose ATSC 3.0 equipment mandates. For example, when adopting the ATSC 3.0 rules, the Commission found that “the incorporation of ATSC 3.0 tuners into smartphones and mobile devices should be driven by consumer demand” and not by any government mandates.\(^\text{16}\) More critically, the Commission found that there should be no mandate for ATSC 3.0 receivers at all and that a “tuner mandate is unnecessary at this time given that the deployment of ATSC 3.0 will be voluntary and market-driven. . . .”\(^\text{17}\) The Commission should not alter this approach, as an equipment mandate would result in market-distorting inefficiencies and unnecessary burdens on vendors. This is particularly acute in the case of mobile devices, where space is at a premium. Therefore, CTIA strongly encourages the Commission to continue to rely upon consumer demand for the development and deployment of ATSC 3.0 technology.


\(^{17}\) See id. at 9973 ¶ 83. Of note, this position has garnered support from broadcast interests. In a September 2017 ex parte filing, the National Association of Broadcasters stated the following: “The National Association of Broadcasters and its fellow petitioners have consistently made plain that they are not seeking a tuner mandate for the Next Generation TV standard for either fixed or mobile devices.” Letter from Patrick McFadden, Associate General Counsel, National Association of Broadcasters, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 16-142, at 1 (filed Sept. 25, 2017).
IV. CONCLUSION.

For the reasons set forth above, the Commission should revisit its methodology for ancillary and supplementary fees as applied to Broadcast Internet services and maintain regulatory parity for analogous services consistent with the Communications Act, while allowing consumer demand to drive adoption of ATSC 3.0 in mobile devices.

Respectfully submitted,

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