

February 18, 1998

SEPARATE STATEMENT OF COMMISSIONER HAROLD W. FURCHTGOTT-ROTH
DISSENTING IN PART

Re: Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service -- Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order

With one exception, I support all aspects of today's decision on digital television. At long last, we are providing television broadcasters the information they need to convert to the new DTV technology.

I dissent, however, from the Commission's decision to reduce by 30 MHz the amount of clear spectrum that can be reallocated from broadcasting to other communications services. As described below, I am concerned not only with the specifics of this decision and its clear implications for our spectrum management policy and the federal budget, but also a disturbing trend that is emerging in our decision making.

During the transition period -- when analog NTSC and DTV stations will be operating simultaneously -- DTV allotments and assignments will be scattered among all the spectrum channels currently allocated to television broadcasting. These channels are numbered 2-69. At the end of the transition, when NTSC stations are turned off, far fewer spectrum channels are needed to accommodate only the DTV stations. As the Commission decided last year, the excess spectrum can be reallocated to other radio services, such as personal communications services (PCS), and would be licensed by auction. The remaining DTV spectrum is known as the "core," and was proposed last year to span channels 7-51.

Subsequent to our decision last year to designate channels 7-51 as the DTV core, the Congressional Budget Office (CBO) estimated the revenues that will be generated by auction of spectrum outside of the core. This estimate then was included in federal budget planning.

Also after our decision, several parties suggested that VHF spectrum covered by channels 2-6 would be necessary for DTV signals to replicate the service areas of the analog NTSC stations currently assigned channels 2-6. The key reason cited was the propagation characteristics of VHF signals; they tend to "hug" the ground and, thus, they easily can reach some viewers (located in valleys, for example) that UHF signals -- *e.g.*, in channels 47-51 -- cannot. Further, this VHF spectrum is less valuable for new mobile services than would be the same amount of UHF spectrum. Thus, it made perfect sense to "slide" the core down by five channels so that it would cover channels 2-46, and reallocate the spectrum in channels 47-51 to mobile or other radio services. I supported this approach.

Unfortunately, we are taking another approach. We are designating channels 2-51 as the DTV core spectrum. Thus, we are adding an additional five channels, 6 MHz each, to the band allocated for television broadcasting. This decision reduces by 30 MHz the amount of clear

spectrum that can be reallocated for other radio services and auctioned to new licensees.

The reasons we give for justifying this spectrum grab can be boiled down to a spectrum management aphorism: "more is better." Yes, it is true that sharing among DTV stations after the transition will be eased by having 30 MHz more for broadcasting. And, yes, it is true that it will be easier to accommodate new LPTV stations after the transition. What our order does not say, however, is that the pressing need for television broadcasting spectrum -- for both DTV and for LPTV -- arises *during* the transition, not after. Thus, our decision to expand the post-transition core will do little to ease the technical burdens of the transition on full power broadcasters and will do nothing to save existing LPTV stations that are displaced during the transition. (One should ask how much comfort the LPTV stations pushed off the air during the transition will take from the fact that they might be able to begin broadcasting again several years later, after the transition is over.)

Even if the very limited benefits of expanding the post-transition core somehow justified reduction in the amount of spectrum available for auction to other services, the FCC has made no attempt to quantify how much additional DTV spectrum is necessary. Do we need to add one more channel? Two? Three? Indeed, it is no mere coincidence that we have determined today that the post-transition core must be exactly 30 MHz wider than we proposed last year. Having made the reasonable decision to include the VHF channels 2-6 in the DTV core, the Commission simply refused to make the hard choice of keeping the core at the same size and added five channels totalling 30 MHz. More is better.

Or is it?

Looking at the benefits side of the ledger, I would agree there are some benefits (if overstated) to simply adding 30 MHz to the permanent TV broadcasting allocation. What we yet again have failed to do, however, is to consider the costs side of the ledger.

From a spectrum management perspective, we have decided -- again with little consideration -- to maintain additional spectrum for a radio service that serves fixed receivers at the expense of other services, particularly mobile radio services that by definition cannot employ wireline delivery media. The costs of this decision could be enormous in terms of the new services that consumers never see, or savings on existing services they never realize.

From the perspective of fiscal responsibility, it is distressing that we -- on our own motion -- have removed a full 30 MHz of clear spectrum from the amount scored into the federal budget by the CBO. It is no answer to say that our recently-granted authority to auction broadcasting licenses, including the post-transition interstitial licenses in the DTV core (whether 2-46 or 2-51) will allow us to raise more money than auctioning channels 47-51 after they are cleared. The point here is that sum of the auction revenues from clear channels 47-51 and the interstitial post-transition DTV licenses in channels 2-46 surely will exceed the revenues from auctioning the interstitial post-transition DTV licenses in channels 2-51.

How ironic that the Commission currently is engulfed in deliberations considering the final disposition of licenses for the C-Block PCS spectrum. It strains credulity for us to fight for auction payments to the Treasury for one 30 MHz block of UHF spectrum, but cavalierly give away another 30 MHz block of UHF spectrum.

Finally, as noted above, I am very concerned at the emerging pattern here. We seem to say that as long as there are benefits to a decision, the costs do not matter, and that such decisions are particularly easy if consumers never know what services they are missing or how the federal budget is affected. This unwillingness to conduct straightforward cost-benefit analyses and provide consumers all the information they deserve is becoming a shameful hallmark of this agency.

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