



May 13, 2009

MEMORANDUM TO CLIENTS

Re: **FCC Implements “Replacement” DTV Translator Service**

Last week, the Federal Communications Commission (“FCC”) adopted a Report and Order creating a new “replacement” DTV translator service, which will allow full-power stations to operate digital translators to “fill-in” areas that will lose service as a result of the transition to digital broadcasting. The Commission also announced that it will soon initiate first-come, first-serve licensing for new non-replacement TV translator facilities (including LPTV stations).

The Commission proposed the replacement translator service last December in a Notice of Proposed Rulemaking that adopted interim procedures for accepting DTV translator applications. Since that time, the FCC reports that it has received 20 applications from 14 different stations seeking replacement DTV translators. The Commission’s goal in creating the new service is to allow Americans to receive the television broadcast service they were accustomed to receiving before the digital transition to the greatest extent feasible.

Only full-power stations that can demonstrate that a portion of their analog service will not be served by their digital facilities will be eligible to apply for replacement DTV translators. The translator’s service area must be confined to the station’s analog loss area, although the FCC did allow for the possibility that it would permit “*de minimis*” expansion of this service area on a case-by-case basis when necessary. All translators must be limited to in-core channels 2-51, so as to not interfere with the advanced wireless services that will develop post-transition on channels 52-59.

Replacement DTV translators will be associated with the full-service station’s license, will have the same call sign and FRN, and will be renewed at the same time as the full-power license. Therefore, the translator license may not be assigned or transferred on its own. Service on the translator must be limited exclusively to rebroadcast of the full-power station; program origination or conversion of the translator into an LPTV station is not permitted.

Applications for replacement translators should be filed on FCC Form 346 and will be treated as minor change applications with no filing fee. The applications will have processing priority over other translator and LPTV applications, except displacement applications, which will have equal processing priority (*i.e.*, they will be processed alongside replacement DTV translator applications on a first come, first served basis.) Mutually exclusive replacement DTV translator applications will be resolved through the Commission’s competitive bidding rules and procedures. Once a construction permit is authorized, holders will have the standard 3-year time period to build out the facility.

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Like regular translators, replacement DTV translators will be considered a “secondary” service, meaning they may not cause interference to, and must accept interference from, full-power stations and certain other services. Additionally, other FCC rules applicable to translators, such as rules concerning power limits, unattended operation, and time of operation, will also be applicable to replacement DTV translators. Finally, because these replacement translators are ineligible for conversion to low power stations, such translators licensed to commercial stations would have no must-carry rights under current law.

We would be pleased to respond to any questions regarding these matters.

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