



# NEWS

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

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See *MCI v. FCC*, 515 F.2d 385 (D.C. Cir. 1974).

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## **FCC COMMENCES RULEMAKING TO CONSIDER PROPOSALS TO GIVE CERTAIN LOW POWER TV STATIONS CLASS A "PRIMARY" STATUS**

The FCC today asked for comments on whether and how to create a new "Class A" primary television service for qualifying low power television stations. (LPTV)

In a Notice of Proposed Rulemaking (NPRM) released today, the FCC posed a series of "balancing" questions involving possible interference protections for Class A stations while also maintaining their obligation not to interfere with existing broadcast and other primary services. The FCC proposed to limit any grants of Class A status to LPTV stations authorized to operate on TV channels 2 – 51.

The Commission noted that it was particularly critical to ensure that the transition of full power television to digital broadcasting not be undermined. It said that a low power service, particularly as to interference with full power stations, would have to be carefully crafted if the FCC's goals of a stable, protected low power service and a supple full power digital environment are all to be compatible and attainable.

The Commission said that there are approximately 2,200 licensed LPTV stations in approximately 1000 communities in all 50 states serving both rural and urban audiences. The NPRM referred to the essentially local nature of LPTV programming, including news, weather, public affairs, and programming service to discrete geographical and foreign language communities in their localities, and tentatively concluded that this local service warrants interference protection to the extent possible.

The Commission asked for comments on whether providing some form of primary service classification could benefit qualifying stations by providing greater stability that could assist the stations in attracting financial support, advertisers and cable carriage and could assist them in planning local programming, expansion, hiring, and investment in new equipment for eventual digital television operations. It also asked whether creating a Class A primary service could help LPTV stations foster the minority, female and small business ownership of broadcasting facilities that it said has been a hallmark of the low power television service.

DTV issues to be considered in the rulemaking proceeding include how to insure that LPTV stations do not interfere with DTV broadcasters replicating their existing NTSC service, the effect of Class A stations on DTV stations seeking different DTV channel assignments or "maximization" of service areas, and whether Class A stations should have protection against new entrants seeking new DTV channel allotments.

The Commission also said it was asking for comments on whether Class A applicants should be required to protect new NTSC TV station proposals in pending applications or allotment petitions, and whether or not operating Class A stations should be required to protect the actual service of later-authorized facilities. The NPRM also asked for comments on its conclusions that Class A stations protect the service contours of previously authorized LPTV and TV translator stations and must themselves continue to accept interference from such stations.

On issues of eligibility of LPTV stations for the proposed Class A status, the Commission asked whether there should be a time limit, perhaps only one year, for LPTV stations to apply for the new status, because there may be practical limits to the number of LPTV stations that could become Class A stations. It asked for comments on whether Class A applicants should be required to meet the definition of "Small Businesses" to be eligible, and whether local broadcast ownership limits should be applied to Class A licensees to the same extent that they apply to full service licensees. It also asked whether certain television translator stations should be eligible for Class A status, such as those which provide the only television service to a community. The Commission noted that it did not think it would be equitable to apply the 35% national audience cap rule to Class A service since it was not anticipated that these stations would be able to reach an appreciable portion of the markets in which they are located.

With regard to Class A station program service, the Commission asked for comments on whether qualifying stations must provide a minimum amount of locally-originated programming, such as 3 to 7 hours weekly or 1 hour daily, whether stations should be required to certify annually as to their compliance with existing broad rules for local programming, children's informational programming and commercialization and minimum operating hours, or whether there is some qualification criteria that would not involve the Commission in content regulation.

The Commission concluded that the goal of affording more stability to LPTV stations providing local service, while considering the needs of other services, foremost among these the transition to digital television service, will require the balancing of a number of factors, which, it said, will not be easy to strike, and it said comments in the proceeding will be helpful to the Commission to assist it in achieving that balance.

Under existing rules, the LPTV service primarily consists of LPTV stations and television translator stations. LPTV stations may originate programming and retransmit the programs of full service television stations. They are authorized with "secondary" frequency use status and, as such, may not cause interference to, and must accept interference from, full service TV stations. LPTV service stations have lower authorized power levels than full service stations, but are not restricted to operating on a channel specified in a table of allotments and are not subject to numerous rules applicable to full service stations.

Action by the Commission September 29, 1999, Notice of Proposed Rulemaking (FCC 99-257) Chairman Kennard, Commissioners Ness, Furchtgott-Roth, Powell and Tristani with Chairman Kennard and Commissioner Tristani issuing a separate joint statement.

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Report No. MM 99-13

MM RM No. 9260, Docket No. 99-292

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**Joint Statement of Chairman William E. Kennard  
and Commissioner Gloria Tristani**

*Re. In the Matter of Establishment of a Class A Television Service (MM Docket No. 99-292).*

We wholeheartedly support commencement by the Commission of a rule making proceeding looking toward the creation of a Class A license for qualifying stations in the low power television service (LPTV). Many LPTV stations offer their communities significant services, often functioning as the only local television station. LPTV stations commonly serve as exclusive outlets for foreign language and special programming for unserved and underserved audiences. Moreover, many LPTV stations are owned by small businesses, minorities and women and thus enhance the diversity of ownership in the broadcast industry. Nonetheless, because LPTV stations are secondary, they continue to be displaced and dislocated as new primary users and changes to existing primary users' facilities are authorized. Class A status represents a means of ameliorating these problems and preserving the valued services many LPTV stations provide. We therefore support the issuance of this *Notice of Proposed Rule Making* to consider Class A status for certain LPTV stations.

We strongly disagree, however, with the tenor of the *Notice* that we issue today. It essentially avoids proposing any specific protections for a Class A service, asking instead "whether and how" a Class A service should be crafted. We would have preferred affirmative proposals for a Class A service and a measure of primary status that would afford those stations carefully defined protections from further displacement, consistent with our ongoing implementation of digital television service. For example, we believe that the Commission should have proposed to provide prospective Class A stations priority against new digital television applications that are filed after Class A status is awarded and that do not involve a "paired" digital channel.

We recognize that we are at the notice stage of this proceeding and that any proposals we make or conclusions we reach here are necessarily tentative; they should, and will, be tested by public comment and further analysis. But, this does not mean that we must equivocate to the point of utter agnosticism. This is, after all, a notice of *proposed* rule making. Nevertheless, our action today is a welcomed step toward resolving the longstanding uncertainty and insecurity that LPTV stations have faced. We invite all parties to participate fully and to provide as much detail and specificity in their comments as possible.