

## [FCC Rejects Request by Low Power Television Broadcaster to Test Technology to Enable Broadband Service Over Broadcast Spectrum](#)

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Last week the FCC rejected a request by a low power television broadcaster seeking an experimental license to test a technology that would **allow broadcast television stations to provide broadband access**. The brief decision, [available here](#), was issued by the FCC's Media Bureau and rejected the request primarily on the grounds that the technology the LPTV broadcaster sought to test is inconsistent with the existing ATSC standard for transmission of digital television signals in the U.S. This decision brought about a [rebuke by a Wall Street Journal columnist](#), suggesting that the FCC was not fully exploring one way to rapidly deploy broadband through existing TV licensees, in fears of foregoing the revenues that would come from an auction of reclaimed television spectrum. This issue arises while the FCC considers the digital conversion of LPTV, and the future of the television spectrum generally.

As has been well known and discussed for at least the last decade, the ATSC standard chosen for digital television broadcast service in the United States is not ideal for mobile service and is not well suited for two-way broadband service. The current ATSC standard was designed to provide a signal to fixed locations for traditional in-home television watching. As we have [written before](#), in 2000, in the early days of the digital television conversion, some broadcasters suggested that the system be changed to accommodate a more robust signal allowing better mobile reception and other services that maximize the capacity of the digital channel. That proposal was rejected for fears of slowing the digital conversion, but is seemingly being revisited now.

As a result, although the Commission's current rules give digital television broadcasters the flexibility to provide ancillary or supplementary services beyond free over-the-air broadcast television (or to sublet their spectrum to a third-party for such services) including broadband service, practically speaking, the current transmission standard has thus far limited the services that stations have experimented with providing. The recent request for experimental authorization sought to test an alternative technology that would employ a different digital transmission standard that has not been utilized in the United States. Despite having demonstrated the technology for the Commission staff, and despite the fact that the Commission professes to be searching for every available option to improve access to broadband service in the country, the Commission rejected the request for a marketplace test of this technology by a letter issued at the Bureau level (rather than being considered by the Commissioners themselves), barely a page and a half long.

As suggested in the Wall Street Journal column, a cynic might say that the request was rejected in part because it might actually work and might enable existing broadcast television stations to provide broadband services, which would increase available spectrum and service without the need to reclaim, re-auction, and re-band the television spectrum. While the federal government would be entitled to 5% of the gross revenues derived from the provision of ancillary and supplementary services on a TV station's digital spectrum, that flow of revenue is speculative at present, and the Commission might fear that the revenue stream would not produce the windfall payments that could be generated by an auction of recaptured television spectrum, which has been estimated to be in the tens of billions of dollars.

As we [wrote about last year](#), the Commission is currently conducting a rule making regarding the transition of analog LPTV stations to digital TV. That proceeding, combined with the rule making regarding changes to the television rules to facilitate the proposed incentive auctions, which we [wrote about here](#), are sure to lead to further debate about the issue. In fact, with **comments due in response to the NPRM on incentive auctions on March 18**, it will be interesting to see if the National Association of Broadcasters or other parties weigh in on this issue - to argue that broadcasters should be given the opportunity to themselves provide the broadband service that the FCC so desires.

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