



Federal Communications Commission  
Washington, D.C. 20554

April 16, 2018

OTA Broadcasting (SFO), LLC  
11710 Plaza America Drive  
Suite 2000  
Reston, VA 20190

Re: Request for Waiver of Deadline to  
Implement Shared Channel Operations  
KTLN-TV, Palo Alto, CA  
Facility ID No. 49153  
LMS File No. 0000052576

Dear Licensee,

On April 12, 2018, OTA Broadcasting (SFO), LLC (OTA) submitted the above-captioned request for waiver for KTLN-TV, Palo Alto, California (the Station) of its April 23, 2018, deadline to implement shared channel operations and discontinue operations on its pre-auction channel (channel sharing implementation deadline).<sup>1</sup> For the reasons set forth below, we grant the request for waiver, extend the channel sharing implementation deadline to July 23, 2018.

*Background.* The Commission instructed that channel sharee stations<sup>2</sup> must implement shared channel operations and discontinue operations on their pre-auction channels by January 23, 2018.<sup>3</sup> A channel sharee station may request a waiver of the channel sharing implementation deadline.<sup>4</sup> All such requests for waiver will be evaluated to determine whether grant will delay or disrupt the post-auction transition schedule.<sup>5</sup>

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<sup>1</sup> See *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786, 2813, para. 76 (MB & WTB 2017) (*Closing and Channel Reassignment Public Notice*); see also *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 879, para. 63 (MB 2017) (*Broadcast Transition Procedures Public Notice*); 47 CFR §§ 73.3700(b)(4)(ii).

<sup>2</sup> Absent any contrary information from the station, any station that indicated it had a pre-auction channel sharing agreement (CSA) and/or an intent to channel share on its reverse auction FCC Form 177 is considered a channel sharee station until the station fails to meet or obtain a waiver of the channel sharing application filing deadline.

<sup>3</sup> See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2813, para. 76; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 879-80, paras. 63-64.

<sup>4</sup> See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2814, para. 81; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 881, para. 69. Channel sharee stations may request an additional 90 day waiver of the deadline (for a total of 180 additional days) using the same procedure. *Id.*

<sup>5</sup> *Id.*

A waiver is appropriate where the particular facts would make strict compliance inconsistent with the public interest and deviation from the general rule would relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis.<sup>6</sup>

OTA was previously granted a waiver extending its channel sharing implementation deadline to April 23, 2018.<sup>7</sup> In support of its second request for waiver of the deadline, OTA notes that it will be sharing with commonly-owned KAXN-CD, San Francisco, California. In support of its second request for waiver, OTA states that it intended to commence channel sharing on April 20, 2018 and timely sent letters to multichannel video programming distributors (MVPDs) serving the San Francisco Designated Market Area to notify them thereof. In response to those letters, however, OTA states that at least one MVPD has advised it that it does not receive a good quality signal at certain of its headends. Although it is working to deliver a good quality signal to that MVPD using an alternate delivery method, OTA represents that the following steps must still occur before it can deliver its signal to the headends at issue: (1) the MVPD must test the new fiber optic circuits; and (2) hardware for the fiber transmission must be delivered and installed at multiple sites. OTA is concerned that it will be unable to complete these tasks, which require actions outside its control, before the planned April 20 transition date or the April 23 deadline.

OTA argues that grant of its waiver will serve the public interest. OTA maintains that grant will facilitate the Station's ability to channel share successfully and without disruption serving the Commission's longstanding policy goals for broadcast television, including localism, viewpoint diversity, and competition. OTA argues, if the Station commences channel sharing with KAXN-CD before it has established a good quality signal to the MVPD in question, the MVPD's subscribers will temporarily lose the ability to view the Station. OTA argues that delaying the commencement of channel sharing until the alternate signal is established, therefore, will minimize viewer disruption.

OTA argues further that the Station to utilize a full 6 MHz channel for an additional 90 days will allow it to provide the best over-the-air experience to its viewers by providing a better-quality signal (with increased bandwidth and lower compression).

Moreover, OTA maintains, a grant of 90 additional days will not adversely affect the Commission's post-auction transition timeline. OTA notes that the channel sharing arrangement under consideration will utilize existing facilities, and grant of its waiver will not divert any engineering resources otherwise needed for the post-auction transition. Furthermore, OTA continues, as the testing period for Phase 1 of the repack does not begin until September 14, 2018, providing the Station with 90 additional days to cease operations on its pre-auction channel and transition to shared operations will not affect other stations' transition schedules. Finally, OTA concludes that grant of its waiver should not have a significant effect on 600 MHz wireless operations. OTA represents that it expects to establish its alternate signal delivery in a matter of weeks. As such, OTA argues that the public interest in ensuring the successful implementation of the Station's CSA and its uninterrupted service to the viewing public outweighs any delay at issue in its waiver.

*Discussion.* Upon review of the facts and circumstances presented, we find OTA's request to extend the channel sharing implementation deadline until July 23, 2018, satisfies the requirements for a waiver. We find that it would not be consistent with the public interest to require the Station to

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<sup>6</sup> See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

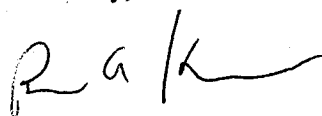
<sup>7</sup> See LMS File No. 0000036896.

implement its shared channel operations by its current deadline as it is currently completing implementation of its shared channel operations. Given that the testing period start date for transition phase 1 is not set to begin until September 14, 2018, we find that waiver of the channel sharing implementation deadline will not adversely impact the post-incentive auction transition. Further, given the fact that OTA has represented that it expects to establish its alternate signal delivery in a matter of weeks, we find that the public interest in ensuring the successful implementation of the Station's CSA and its uninterrupted service to the viewing public outweighs any slight delay to 600 MHz band implementation that may result from the grant of its waiver.

Any further requests for waiver of the channel sharing implementation deadline will not be viewed favorably.<sup>8</sup>

The above facts considered, OTA Broadcasting (SFO), LLC's request for waiver **IS GRANTED** and the deadline to implement its shared channel operations and to discontinue operations on its pre-auction channel for KTLN-TV, Palo Alto, California, **IS EXTENDED** to July 23, 2018.<sup>9</sup>

Sincerely,

A handwritten signature in black ink, appearing to read 'B A / K', followed by a long horizontal flourish.

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc: Ari M. Meltzer, Esq.

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<sup>8</sup> Further requests to waive the channel sharing implementation deadline must be filed no later than May 23, 2018. *Id.* at 880, para. 70 (requests for waiver of the channel sharing implementation deadline must be filed no later than 60 days prior to the deadline).

<sup>9</sup> Because the requested channel sharing implementation deadline falls on Sunday, July 22, 2018, we set Monday, July 23, 2018, as the new deadline. *See* 47 C.F.R. § 1.4.