



Federal Communications Commission
Washington, D.C. 20554

December 7, 2021

Fox Television Stations, LLC
Ann West Bobeck
101 Constitution Avenue, NW
Suite 200 West
Washington, DC 20001
(via electronic mail)

KTTV, Los Angeles, CA
Facility ID No. 22208
LMS File No. 000166454

Dear Licensee:

This letter is in reference to the above-captioned application for legal special temporary authority (Legal STA) filed by Fox Television Stations, LLC (Fox or Licensee), licensee of full power television station KTTV, Los Angeles, California (KTTV or Station).¹ In its Legal STA, the Licensee requests authorization to allow KTTV's non-primary programming stream (multicast stream) to be aired in an ATSC 1.0 format, with no ATSC 3.0 simulcast, on KCOP-TV, Los Angeles, California (KCOP), also licensed to Fox.² Fox has entered into this arrangement in connection with the Station's transition of its facilities to the ATSC 3.0 transmission standard. Though both KTTV and KCOP are commonly owned, Fox requests that the instant legal authorization be granted and cover KTTV's multicast stream aired over the channel of KCOP given its plans to use the multicast stream to demonstrate compliance with its Core Programming obligation under the Commission's rules regarding children's programming.³ Specifically, the Licensee requests that KTTV be treated as if it is still originating the multicast stream and be considered the responsible party for compliance with any obligations under the Communications Act of 1934, as amended (Act) and the Commission's rules (Rules).⁴ For the reasons below, we grant the Licensee's request.

Background. On December 3, 2021, the Video Division granted the Station's application for modification of license to convert its existing broadcast facilities to ATSC 3.0 transmission.⁵ As required

¹ Application of Fox Television Stations, LLC for Legal Special Temporary Authority as Amended, LMS File No. 0000166830 (filed Nov. 5, 2021) (Fox Legal STA).

² KCOP is licensed to operate on RF Channel 13.

³ We find that that utilization of the Bureau's Legal STA process is appropriate where Core Programming obligations will be met in such a way, and we would expect other stations involved in similar arrangements, even if between commonly-owned stations, to do the same.

⁴ Fox Legal STA, Second Amended Narrative Exhibit at 2. See *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, GN Docket No. 16-142, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930, 9970-73, paras. 79-82 (2017) (*Next Gen TV Report and Order*) (requiring Next Gen TV broadcasters to comply with all Commission broadcast rules, including, but not limited to, the Rules regarding foreign ownership, political broadcasting, children's programming, equal employment opportunities, public inspection files, indecency, sponsorship identification, etc.).

⁵ Application of Fox Television Stations, LLC (KTTV) for Modification of License as Amended, LMS File No. 0000166446 (granted Dec. 3, 2021) (Fox License Modification).

by section 73.3801 of the Rules,⁶ the Station's primary stream will be simulcast in an ATSC 1.0 format over the facility of KTLA, Los Angeles, California, which is licensed to Tribune Media Company.⁷ In addition to its primary stream, the Station currently broadcasts one non-primary multicast stream: *Decades*.⁸ In order to avoid the loss of the Station's over-the-air multicast programming to its current ATSC 1.0 viewers, Fox proposes to broadcast *Decades* over KCOP.⁹ As part of that same arrangement, Fox will provide KTLA capacity as an ATSC 3.0 guest station on the Station's ATSC 3.0 facility.¹⁰

As noted in the Legal STA, because of ATSC 1.0 capacity constraints, the Station is not able to air its multicast stream on the same channel as its primary ATSC 1.0 simulcast signal.¹¹ Furthermore, due to capacity and other constraints the Station is not able to simulcast an ATSC 3.0 version of its multicast streams.¹² Pursuant to an engineering study conducted by the Licensee, over 99 percent of KTTV's current over-the-air ATSC 1.0 viewers will retain access to *Decades* over KCOP.¹³ Absent the proposed arrangements and grant of the instant request, the Licensee states that "FTS may not be able to continue to provide the Station's non-primary multicast stream over-the-air, which would request in a complete loss of service to all of the over-the-air viewers of these streams."¹⁴ The Station's non-primary multicast stream will continue to serve the Station's DMA and community of license.¹⁵

⁶ 47 CFR § 73.3801(b).

⁷ See Fox License Modification. KTLA is licensed to operate on RF Channel 35. The Station's primary host will continue to cover over 95% of its current 1.0 viewers, coverage that meets the Commission's expedited processing standard for a host station's coverage of a primary stream. *Id.*; see 47 CFR § 73.3801(f)(5).

⁸ Fox Legal STA, Second Amended Narrative Exhibit at 1.

⁹ *Id.* at 1-2.

¹⁰ *Id.* at 2. Application of Fox Television Stations, LLC (KCOP) for Modification of License, LMS File No. 0000166450 (granted Dec. 3, 2021).

¹¹ *Id.* at 2. We also note that stations are not required to air their multicast channels as part of their ATSC 3.0 conversion. See *Next Gen TV Report and Order*, 32 FCC Rcd at 9937-38, para. 13, n.40 ("The provision of multicast channels is discretionary, and we decline to adopt rules requiring broadcasters who currently air such channels to continue to do so."); see also *infra* note 26.

¹² Fox Legal STA, Second Amended Narrative Exhibit at 2. Specifically, the Licensee states that due to ATSC 3.0 capacity and other constraints attendant with the multi-station coordination needed for a successful ATSC 3.0 deployment, it is not feasible for the Station's ATSC 3.0 facility to simulcast the Station's non-primary multicast streams in the ATSC 3.0 standard. According to the Licensee, doing so would impact the Station's ability to offer enhanced video featuring High Dynamic Range, Wide Color Gamut and High Frame Rate, immersive and multiple audio channels using Dolby AC-4, Advanced Emergency Alerting and Information functions as part of a broadcast receiver application, and non-real time interactive data delivery. *Id.* Furthermore, the Licensee states that even setting aside these impediments, significant additional engineering work and more equipment would be required to simulcast the Station's non-primary multicast streams using both the ATSC 3.0 and ATSC 1.0 standards. Obtaining, installing, and testing that equipment would delay and hamper the deployment of ATSC 3.0 services in the Los Angeles, California Designated Market Area. *Id.*

¹³ *Id.* at 2, 5-6.

¹⁴ *Id.* at 2.

¹⁵ See Fox Legal STA, Second Amended Narrative Exhibit at 2.

The Licensee further states that it has provided the requisite notice to MVPDs regarding relocation of the Station's primary ATSC 1.0 stream and its non-primary multicast stream.¹⁶ The Station has and will also continue to air the requisite over-the-air announcements regarding its transition to the ATSC 3.0 standard and the need for over-the-air viewers to rescan their television sets to continue to receive KTTV's ATSC 1.0 programming streams.¹⁷ In order to alleviate any viewer confusion, the PSIP (virtual) channel for each of the Station's programming streams will remain unchanged and will be identified to viewers as being associated with the Station.¹⁸ The Licensee plans to convert the Station's facilities to ATSC 3.0 and commence its ATSC 1.0 operations over KTLA (primary stream) and KCOP (*Decades*) on December 7, 2021.¹⁹

Discussion. We conclude, based on the facts and circumstances presented, that the public interest would be served by the grant of the Licensee's Legal STA. Under the Commission's rules, Next Gen TV Broadcasters are not required to continue airing their existing non-primary multicast streams.²⁰ Grant of the instant Legal STA will promote the continued transmission of the Station's non-primary multicast programming stream in an ATSC 1.0 format to viewers and make clear that the Station is responsible for the content of those signals from a regulatory compliance and enforcement perspective. Therefore, for purposes of all statutory and regulatory obligations related to the Station's non-primary multicast stream, we will treat that signal as a multicast of KTTV even though the programming is be aired over KCOP's channel. The Station is the sole party responsible for ensuring compliance with all statutory and regulatory requirements with regard to all of its original non-primary multicast stream. This includes, but is not limited to, our rules regarding political broadcasting, children's programming,²¹ equal employment

¹⁶ *Id.* at 3. See 47 CFR § 73.3801(g) (Notice to MVPDs).

¹⁷ Fox Legal STA, Second Amended Narrative Exhibit at 3. See 47 CFR § 73.3801(f) (Consumer Education for Next Gen TV stations).

¹⁸ Fox Legal STA, Second Amended Narrative Exhibit at 3.

¹⁹ *Id.* at 1. Because of technical difficulties counsel for Fox has notified Bureau staff that the Station's transition to ATSC 3.0 now will not occur until December 9, 2021.

²⁰ *Supra* note 11.

²¹ The Licensee reports in its Legal STA that "the Station schedules one hour per week of regularly scheduled children's core programming and at least 52 hours per year of nonregularly scheduled core programming on its primary programming stream, and thus intends to rely on its non-primary multicast streams for its second hour per week of regularly scheduled core programming" for compliance with the Commission's Children's Television Programming Requirements. Fox Legal STA, Second Amended Narrative Exhibit at 3-4. As stated in the application, all multicasts will reach over 99 percent of current ATSC 1.0 viewers, coverage that is well within the Commission's expedited processing standard for a host station's coverage of a primary stream. The Commission established a 95 percent coverage threshold for expedited processing finding that it struck the appropriate balance between ensuring continued provision of service to viewers against providing broadcasters sufficient flexibility to locate and select a simulcast partner. See *Next Gen TV Report and Order*, 32 FCC Rcd at 9947-49, paras. 34-38; 47 CFR § 73.3801(f)(5). Through the Legal STA process, the Bureau has previously allowed Next Gen TV stations to utilize a 1.0 multicast host to demonstrate compliance with the Commission's Core Programming requirements where coverage was found to meet the 95 percent coverage threshold required for expedited processing. See e.g., Letter from Barbara A. Kreisman, Chief, Video Division, FCC Media Bureau, to Fox Television Stations, LLC at 3, n. 21 (rel. June 24, 2021) (on file in LMS File No.0000143946). By grant of this authorization and temporary arrangement we help preserve the maximum amount of ATSC 1.0 programming to the greatest number of viewers while facilitating the deployment of ATSC 3.0 and new innovative broadcast services. We note that in the *Second ATSC 3.0 FNPRM* the Commission tentatively concluded that "to be counted toward Core Programming for purposes of our children's television rules, programming on a multicast stream must either be carried on the same host as the originating station's primary stream, or on a host that serves at least 95 percent of the predicted

opportunities, public inspection files, indecency, sponsorship identification, station identification, contests, the CALM Act, and the Emergency Alert System.²² Furthermore, we decline to require KTTV to air an ATSC 3.0 version of the ATSC 1.0 non-primary multicast stream being aired over KCOP given the capacity and engineering constraints that the Licensee has described.

Accordingly, the application of Fox Television Stations, LLC, licensee of KTTV, Los Angeles, California, **IS GRANTED** for a period of six months from date of this letter – hereby expiring on June 6, 2022. For purposes of the Act and the Commission’s rules, we will consider the multicast program stream to be originated by the Station, even though the stream is being aired over the KCOP’s channel. Any change in the non-primary multicast stream being aired over KCOP by the Station or relocating any of the non-primary multicast stream to a new ATSC 1.0 multicast host will require the filing of a new request. By this grant, the Licensee agrees to coordinate with MVPDs as necessary. Because multicast signals are not entitled to mandatory carriage rights,²³ any impact on an MVPD’s ability to carry KTTV’s non-primary multicast stream pursuant to a retransmission consent agreement is subject to the terms of the private contractual relationships between KTTV and the affected MVPDs. According to the Licensee, it will coordinate with all impacted MVPDs to ensure that they continue to receive a good quality signal of the non-primary multicast stream over-the-air or via alternative delivery methods.²⁴ Our grant of the instant STA authorization shall not prejudice the outcome of the Commission’s current ATSC 3.0

population served by the applicant’s pre-transition 1.0 signal.” *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, Second Further Notice of Proposed Rulemaking, GN Docket No. 16-142, FCC 21-116, para. 30 (rel. Nov. 5, 2021) (*Second ATSC 3.0 FNPRM*). The Commission also stated that during the pendency of the *Second ATSC 3.0 FNPRM* it would allow the Bureau to continue to process STA requests and 3.0 license applications in the same manner it has previously. *Id.* at n.47. Our action herein is not intended to prejudge the outcome of that proceeding, and the Station must come into compliance with any rules that are ultimately adopted therein. *See infra* note 26.

²² *See supra* note 4.

²³ *See Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission’s Rules*, CS Docket Nos. 98-120, 00-96 and 00-2, First Report and Order and FNPRM, 16 FCC Rcd 2598, 2621-22, para. 54 (2001); *affirmed by Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission’s Rules*, Second Report and Order and First Order on Reconsideration, CS Docket No. 98-120, 20 FCC Rcd 4516, 4518, para. 3 (2005) (*DTV Must-Carry Second R&O*) (declining to require cable systems to carry a licensee’s multicast streams). In the *DTV Must-Carry Second R&O*, the Commission affirmed its decision in the First Report and Order to interpret the statutory term “primary video” to mean only a single programming stream. If a digital broadcaster elects to divide its digital spectrum into several separate programming streams, only one of these streams is entitled to mandatory carriage. *Id.* at 4530-37, paras. 28-44.

²⁴ Fox Legal STA, Second Amended Narrative Exhibit at 3.

proceeding relating to the licensing of multicast streams and will be subject to the outcome of the proceeding.²⁵

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

²⁵ In the *Second ATSC 3.0 FNPRM* the Commission seeks comment on issues related to the licensing of ATSC 1.0 multicast streams by stations that have converted their facilities to ATSC 3.0 operations. See *Second ATSC 3.0 FNPRM*, FCC 21-116; see also Petition for Declaratory Ruling and Rulemaking of the National Association of Broadcasters, GN Docket No. 16-142 (filed Nov. 9, 2020) (Petition). The Commission stated that during the pendency of the rulemaking it will “maintain the status quo and permit the Bureau to continue to process STA requests and 3.0 license applications in the same manner it has to date.” *Second ATSC 3.0 FNPRM* at n. 47. We find that the instant request is consistent with the Bureau’s prior actions under the STA process. The Commission also stated that “any STA or 3.0 license application granted previously or during the course of this proceeding containing such multicast arrangements shall not prejudice the outcome of this proceeding, and any such STA or 3.0 license application will be subject to the outcome of this proceeding.” *Id.* Accordingly, we want to make clear that our action herein is not intended to prejudge the outcome of the proceeding and all licensees must come into compliance with any rules adopted by the Commission, therein, to the extent this authorization conflicts.