

Via electronic filing

September 2, 2025

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard* – GN Docket No. 16-142

Dear Ms. Dortch:

On Thursday, August 28, representatives of the Consumer Technology Association (CTA) and Public Knowledge met with the Office of Commissioner Trusty to discuss the Public Notice in response to the Petition for Rulemaking and Future of Television Initiative Report filed by National Association of Broadcasters (NAB).¹ A full list of participants in the meeting is attached.

This collaboration between stakeholders represents different aspects of the television marketplace, and each is on record individually opposing NAB’s Petition.² The undersigned organizations urge the Commission to deny NAB’s requests.

Stakeholder Presentations

CTA reiterated its longstanding position that the transition to ATSC 3.0 should remain voluntary and that a mandatory transition to ATSC 3.0 would harm consumers by imposing real costs for consumers, stifling innovation, and levying unneeded regulations. Without any regulatory mandate, the consumer technology industry has done and continues to do its part. CTA members led the development of the ATSC 3.0 suite of standards, and CTA partnered with broadcasters on the NEXTGEN TV name and logo.³ If broadcasters are concerned about market demand for ATSC 3.0 tuners, they need to do their part in consumer education and promotion rather than seeking a technology mandate.

¹ *Media Bureau Seeks Comment on Petition for Rulemaking and Future of Television Initiative Report Filed by the National Association of Broadcasters to Facilitate Broadcasters’ Transition to Nextgen TV*, Public Notice, MB Docket No. 16-142, DA 25-314 (MB Apr. 7, 2025) (“Public Notice”); see also *Petition for Rulemaking of the National Association of Broadcasters*, GN Docket No. 16-142 (Feb. 26, 2025) (NAB Petition).

² Joint participation in advocacy does not mean agreement with or endorsement of each other’s positions.

³ See Comments of Consumer Technology Association, GN Docket No. 16-142 at 2 (filed May 7, 2025) (CTA Comments).

The video and television marketplace has changed significantly in the time it has taken to develop the ATSC 3.0 standard and offer ATSC 3.0 to consumers. Data from multiple sources shows a small percentage of households solely rely on OTA broadcast for their video content.⁴ CTA market research on the video ecosystem shows consumers view video content on screens of all types and sizes – reinforcing that consumers choose their video from many sources of content including broadcast television. This research also shows that approximately 8% of video content viewers rely on a TV antenna as the only source of video content.⁵ It would be harmful to consumers to mandate that all televisions add an ATSC 3.0 tuner because of the increased manufacturing cost to implement for all a feature that only some want.⁶

Public Knowledge asserted that, in addition to harming user rights, the digital rights management (DRM) and certification process creates the ability to gatekeep competition and prevent device makers from including features users might want. The A3SA certification model operates without meaningful external oversight, with licensing terms that are confidential and decision-making processes that are opaque. This private entity, controlled by incumbent broadcasters, would control what devices can use the public airwaves. Startups, open-source projects, and academic developers lack the resources to navigate the A3SA certification process, and many will simply be locked out of the ATSC 3.0 ecosystem. Even large manufacturers may choose to avoid the standard altogether, fearing the costs and restrictions associated with DRM compliance, leaving consumers with fewer choices, higher prices, and less control over how they access public broadcasts.

There are similar concerns with respect to patent fees associated with the ATSC 3.0 standard. Standard-essential patent (SEP) abuse is an ongoing issue, especially when patents are held by entities with conflicts of interest. Excessive fees or hold-ups should not be allowed to limit competition, and the FCC must consider these issues when reviewing the NAB Petition.

⁴ See Letter from Consumer Technology Association et. al., GN Docket No. 16-142 at 2-3 (filed July 21, 2025).

⁵ See *generally* CTA, 2025 U.S. Consumer Technology Ownership & Market Potential Study (May 2025), <https://www.cta.tech/research/2025-us-consumer-technology-ownership-market-potential-study>; CTA, The Video Ecosystem: The Future of TV (Feb. 2025) <https://www.cta.tech/research/the-video-ecosystem-the-future-of-tv>.

⁶ To demonstrate the potential impact of an ATSC 3.0 tuner mandate, in March 2025, CTA staff conducted a search for 55 inch, 4K resolution, “mini-LED QLED” TVs from one nationwide retailer. The search resulted in eight models, five of which had ATSC 1.0 tuners and three with ATSC 1.0 and 3.0 tuners. Among these televisions, the average price of those with only ATSC 1.0 tuners was \$676, while the average price of televisions with ATSC 3.0 support was \$833. The two most expensive televisions cost significantly more than the others. Removing the “higher end” two models resulted in an average price among these TVs with ATSC 1.0 tuners of \$520, and the average price with ATSC 3.0 support at \$600. Given this sample, in addition to other known factors, such as patent licensing costs, it is reasonable to conclude that consumers would pay more if all televisions were mandated to include an ATSC 3.0 tuner. See CTA Comments at 9.

Public Knowledge also raised legal issues related to the *American Library* case. In *American Library Association v. FCC*, 406 F.3d 689 (D.C. Cir. 2005), the court held that the FCC lacked authority to impose requirements on consumer electronics, stating that the agency's general jurisdictional grant does not encompass regulation of consumer electronics products post-transmission. The proposed mandatory transition to ATSC 3.0 would require consumer devices to incorporate specific technologies to access encrypted broadcast content, effectively dictating the design and capabilities of televisions and related devices, which mirrors the broadcast flag regime invalidated by the DC Circuit.

Public Knowledge also noted the importance of accessibility and other public interest requirements, and emphasized the longstanding social contract of broadcasting—whereby broadcasters were granted exclusive use of valuable public spectrum in exchange for providing programming free to the public, while meeting obligations such as localism and emergency alerting. Public Knowledge noted that many of the kinds of services that broadcasters seek to provide through ATSC 3.0, such as interactive features, are already available through online streaming platforms, where broadcasters are free to compete on equal terms. Finally, Public Knowledge argued that since broadcasters seek to benefit most from any transition, that they should bear its costs.

Conclusion

We respectfully urge the Commission to deny NAB's requests.

Pursuant to Section 1.1206 of the FCC's rules, this letter is being electronically filed with your office.⁷ Please contact the undersigned if you have any questions regarding this filing.

Respectfully submitted,

Consumer Technology Association
Public Knowledge

cc: FCC Meeting Attendees (via email)

⁷ 47 C.F.R. § 1.1206.

Attendees

CTA

Brian Markwalter, Senior Vice President, Research & Standards

Rachel Nemeth, Senior Director, Regulatory Affairs

Public Knowledge

John Bergmayer, Legal Director

FCC Office of Commissioner Trusty

Marcus Maher