

ALERT

FCC Tees Up Next Gen TV Transition for October Open Meeting

October 9, 2025

On October 7, 2025, the Federal Communications Commission (FCC or Commission) released a draft Fifth Further Notice of Proposed Rulemaking (draft FNPRM) that, if adopted at the October 2025 Open Commission Meeting, would have significant ramifications for the television industry's ongoing voluntary, market-based transition to the ATSC 3.0 digital TV transmission standard (ATSC 3.0 or Next Gen TV).

Most notably, after months of aggressive lobbying by many broadcasters encouraging the Commission to set a mandatory deadline to complete the transition, the draft FNPRM stops short of fulfilling that request and instead tentatively concludes that individual broadcasters should have the flexibility to decide for themselves, based on their assessments of the specific needs of their local markets, when to stop ATSC 1.0 transmissions and start broadcasting exclusively with the ATSC 3.0 standard. The draft FNPRM also tentatively concludes that television stations that continue voluntarily broadcasting in both 1.0 and 3.0 (i.e., simulcasting) will no longer be required to air "substantially similar" programming on each signal.

The draft FNPRM also seeks comment on other important issues and proposals related to these tentative conclusions, including matters related to digital rights management; whether a 3.0 tuner mandate is necessary; and whether the Commission should revise its mandatory carriage rules for multichannel video programming distributors (MVPDs) to allow television stations to assert mandatory carriage rights for their 3.0 signals.

If the draft FNPRM is adopted, stakeholders will have the opportunity to provide comment on the issues raised in the item once it is published in the Federal Register.

Authors

Kathleen A. Kirby

Partner

202.719.3360

kkirby@wiley.law

John M. Burgett

Partner

202.719.4239

jburgett@wiley.law

Ari Meltzer

Partner

202.719.7467

ameltzer@wiley.law

Stephanie Rigizadeh

Associate

202.719.4736

srigizadeh@wiley.law

Practice Areas

Administrative Procedure

Emerging Technologies

Media

Telecom, Media & Technology

Background

The draft FNPRM emphasizes the Commission's desire to accelerate the nation's transition to Next Gen TV broadcasting, which the Commission first authorized in 2017 on a voluntary, market-driven basis. Under the current Next Gen TV rules, broadcasters voluntarily deploying ATSC 3.0 service must also air a simulcast of their primary stream using the current ATSC 1.0 TV transmission standard. The FCC currently requires that the programming aired on a Next Gen TV station's 1.0 simulcast channel be "substantially similar" to that of the ATSC 3.0 channel's primary stream.

On April 7, 2025, the Commission released a Public Notice seeking comment on the National Association of Broadcasters (NAB) Petition for Rulemaking asking the Commission to "establish a clear timeline to complete the transition" to Next Gen TV. The Commission also invited comment on NAB's Future of Television Initiative Report, which summarizes the discussions of working groups addressing the progress of transitioning from the current ATSC 1.0 standard to ATSC 3.0.

Elimination of 1.0 Simulcasting and "Substantially Similar" Programming Requirements

In the draft FNPRM, the Commission aims to "eliminate unnecessary regulatory barriers that hinder continued progress toward a transition to ATSC 3.0, as well as to facilitate the expansion of Next Gen TV service by giving more flexibility to broadcasters." Significantly, the draft FNPRM finds that, instead of setting any mandatory deadlines for broadcasters to transition to Next Gen TV service, stations should have the flexibility to decide for themselves "how and when to move forward with full 3.0 service," meaning that a station could, if it so chooses, cease transmitting a 1.0 signal altogether and broadcast exclusively with a 3.0 signal.

The draft FNPRM also tentatively concludes that stations choosing to continue operating both a 1.0 and 3.0 signal do not need to air "substantially similar" programming on the two signals, thus allowing broadcasters to divide their programming between the 1.0 and 3.0 signals. In addition, the draft FNPRM proposes that a station choosing to continue simulcasting in 1.0 would not be required to continue providing 1.0 service to at least 95 percent of its population in order to receive expedited processing of its request to initiate 3.0 service. Finally, the draft FNPRM proposes permitting stations transmitting ATSC 1.0 simulcasts to use MPEG-4 compression on their multicast channels, which would allow stations to include more streams on their signal at the potential expense of viewability on older viewing equipment.

Other Key Issues Related to Accelerating the Next Gen TV Transition

Consistent with the Commission's proposal to eliminate the simulcasting requirement and its goal to remove barriers that are hindering adoption of ATSC 3.0 technology, the draft FNPRM seeks comment on a number of other important transition issues, including:

Next Gen TV Tuner Mandate: The draft FNPRM seeks comment on whether the FCC "should require at some point in time that all new TV broadcast receivers be capable of adequately receiving and displaying ATSC 3.0 signals." The item asks for input on the potential costs of a 3.0 tuner requirement on manufacturers and consumers and, if a tuner requirement is adopted, how the agency would implement it and whether it should

impose an informational labeling requirement on TV receiver manufacturers and retailers (indicating which devices are not capable of receiving Next Gen signals).

Encryption of Over-the-Air Broadcast Signals: The draft FNPRM seeks comment on whether the FCC should adopt “standards and/or rules concerning the encryption and/or signing of free, [over-the-air] television broadcast signals and what authority the Commission has to impose such standards and/or rules.” The draft FNPRM includes a detailed discussion of the ATSC 3.0 Security Authority encryption requirements and potential implications for viewers, asking a number of questions related to digital rights management issues.

MVPD Carriage: In view of its tentative conclusion to eliminate the 1.0 simulcasting requirement and the “substantially similar” rule for voluntary simulcasting, the draft FNPRM seeks comment on whether the FCC should make any changes to its MVPD mandatory carriage rules. Most significantly, the draft FNPRM asks whether the Commission should allow stations to assert mandatory carriage rights for their 3.0 signals (instead of their 1.0 signals). The item also seeks comment on whether, as an interim approach, the FCC should afford mandatory carriage rights to a 3.0-only station if it agrees to provide a 1.0 version of its signal feed to MVPDs through a direct connection. In addition, the draft FNPRM seeks comment on the technical challenges and costs that MVPDs could face in carrying 3.0 signals.

Other Issues

In addition to the major issues discussed above, the draft FNPRM also seeks comment on several other important questions related to the 3.0 transition, including:

- *Sunset of 1.0 Broadcasting:* Should there be an eventual sunset of 1.0 broadcasting? If so, should the sunset be tied to a specific date or certain market conditions?
- *Status of FCC Rules’ Technical Standards:* How should the Commission address “the scheduled July 17, 2027, sunset of the requirement that Next Gen TV broadcasters’ primary video programming stream comply with the ATSC A/322 standard”? Should the Commission’s rules be updated to address the most recent A/321 and A/322 standards?
- *Options to Offset Consumer Costs:* Are low-cost converter devices or funding sources available to help offset costs for consumers?
- *3.0 Test Markets:* Should the FCC require use of coordinated “test markets” “for technical testing and to confirm viewer and MVPD readiness”? If so, which markets may be best suited for testing?
- *Accessibility:* How will the industry “ensure that current video accessibility requirements continue to be met in the context of ATSC 3.0 service”? What rule changes may be needed to apply current video accessibility requirements to 3.0?
- *Emergency Alerting:* Are there “any actions or information that emergency alerting stakeholders should be aware of to ensure EAS messages continue to be made available to all broadcast audiences, both during and after the transition”?
- *Fundamental Use of Broadcast Spectrum:* Should Next Gen TV broadcasters “dedicate a specific portion of their licensed spectrum to broadcasting free over-the-air video programming after they

transition to 3.0”?

- *Privacy*: Are privacy rules needed regarding broadcaster collection of viewer data?
- *Notice Requirements*: Should the Commission “adopt additional pre-transition notice requirements on broadcasters or other industry participants, similar to those adopted leading up to the DTV transition”?
- *RAND Licensing*: The FCC welcomes comment on the state of the market for ATSC 3.0 Standard Essential Patents.

Wiley’s Media Practice has a deep bench of attorneys with extensive experience counseling television stations on ATSC 3.0 and the Next Gen TV transition. If you have any questions or would like to file comments in this proceeding, please contact the Wiley attorney who regularly handles your FCC matters or the authors of this alert.