

# FCC Seeks Comment on Status of ATSC 3.0 Transition

June 29, 2022

On June 22, 2022, the Federal Communications Commission (FCC or Commission) adopted a Third Further Notice of Proposed Rulemaking (FNPRM) that seeks comment on the state of the Next Generation Television (Next Gen TV or ATSC 3.0) transition. The FCC also seeks comment on the potential sunset of the “substantially similar” simulcasting requirement and the requirement for Next Gen TV broadcasters to comply with the ATSC A/322 technical standard.

## **Background**

In the 2017 First Next Gen TV Report and Order (2017 Order), the Commission authorized broadcasters to use Next Gen TV on a voluntary, market-driven basis.

Currently, any broadcaster transmitting an ATSC 3.0 signal must continue to air at least its primary stream using the current-generation DTV, or ATSC 1.0, standard through a “local simulcasting” arrangement with another station. The simulcasting requirement is necessary, according to the FCC, because the ATSC 3.0 standard is not “backwards compatible,” so broadcasters must continue to provide service using the ATSC 1.0 standard while the marketplace distributes devices compatible with ATSC 3.0. Programming aired on the simulcast ATSC 1.0 channel must be “substantially similar” to that of the primary video stream on the ATSC 3.0 channel.

The 2017 Order also required that broadcasters comply with the ATSC A/322 standard, which defines the waveforms that ATSC 3.0 signals may take.

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## **Practice Areas**

Media  
Telecom, Media & Technology

Both the substantially similar programming requirement and the A/322 mandate are scheduled to sunset in 2023.

### ***Topics for Comment***

The FNPRM seeks comment on the status of the Next Gen TV marketplace and transition. Specific topics for comment include:

1. Information about broadcasters' current and future deployment of ATSC 3.0 services;
2. Availability and pricing of compatible ATSC 3.0 television equipment, including set-top boxes and gateway devices;
3. Over-the-air consumer viewing of ATSC 3.0 programming;
4. Multichannel Video Programming Distributor (MVPD) carriage of ATSC 3.0 signals; and
5. Whether holders of essential patents in ATSC 3.0 technologies are licensing such patents on reasonable and non-discriminatory terms.

The FNPRM also seeks comment on whether the FCC should retain or sunset the substantially similar programming requirement and the A/322 mandate. With regard to the substantially similar programming requirement, the FCC seeks comment on broadcasters' financial incentives to offer or not offer their most popular programming in an ATSC 1.0 format, how eliminating the substantially similar requirement would impact the effectiveness of the ATSC 1.0 simulcasting rule, and the potential consequences of retaining the rule. If the FCC does retain the substantially similar rule, it seeks comment on how long the rule should be retained.

The FNPRM also seeks comment on the potential impact – for consumers, MVPDs, and set manufacturers – of sunsetting the requirement that broadcasters comply with the A/322 standard.

### ***Looking Ahead***

Comments will be due 30 days after the FNPRM is published in the Federal Register, and replies will be due 30 days thereafter. As of this writing, the FNPRM has not yet been published.

If you have any questions about ATSC 3.0 or are interested in filing comments, please contact the Wiley attorney who regularly handles your FCC matters or one of the attorneys listed on this client alert.

*Stephanie Rigizadeh, a Wiley 2022 Summer Associate, contributed to this alert.*