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December 22, 1998

BY HAND

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W., TW-A325
Washington, D.C. 20554

Re: Reply Comments of Philips Electronics North America Corporation in CS Docket No. 98-120

Dear Ms. Salas:

Enclosed for filing please find the original and nine (9) copies of the Reply Comments of Philips Electronics North America Corporation in the above-referenced docket.

Please stamp and return to this office with the courier the enclosed extra copy of this filing designated for that purpose. Please direct any questions that you may have to the undersigned.

Respectfully submitted,

Lawrence R. Sidman

Lawrence R. Sidman

Enclosures

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Carriage of the Transmissions	)	
of Digital Television Broadcast Stations	)	CS Docket No. 98-120
	)	
Amendments to Part 76	)	
of the Commission's Rules	)	

REPLY COMMENTS OF PHILIPS ELECTRONICS NORTH AMERICA CORPORATION

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December 22, 1998

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REPLY COMMENTS OF
PHILIPS ELECTRONICS NORTH AMERICA CORPORATION

I. INTRODUCTION AND SUMMARY.

Philips Electronics North America Corporation ("Philips") submits these reply comments in the above-captioned Notice of Proposed Rulemaking ("*NPRM*"),[1] concerning the Commission's proposed rules regarding cable television system carriage of broadcasters' digital television ("DTV") transmissions.

The record supports the enormous importance of ensuring that nothing prevents consumers from enjoying, to the fullest extent possible, the wealth of benefits made possible by digital television, regardless of whether the consumer receives DTV over-the-air, via cable, or through any other distribution method. Similarly, the record supports the enormous importance of assuring consumers that the DTV products they purchase are capable of operating at maximum levels of functionality *regardless* of the delivery method over which they receive DTV signals and services. The consequences of denying consumers -- especially 70 million cable consumers -- either of these certainties could dramatically depress consumer interest and

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[1] *Notice of Proposed Rulemaking* in CS Docket 98-120, 13 FCC Rcd 15092 (1998).

investment in DTV, retarding the overall transition and delaying the return of broadcasters' analog spectrum.

To prevent such a scenario, and for the purpose of reiterating its central message in this proceeding, Philips urges the Commission to adopt rules which ensure that the transition to DTV proceeds in a manner that places the interests of consumers ahead of all others. Specifically, these rules should: (1) require cable operators to retransmit broadcasters' DTV signals without degradation of any kind (*i.e.,* in their original formats); and (2) require cable operators -- including the set-top boxes they employ -- to carry and maintain the integrity of data contained in the entire 6 MHZ broadcast channel for every DTV broadcast signal that it retransmits, including all PSIP data and USER data. As discussed *infra,* Philips is concerned over the apparent build-up of inventories of cable set-top boxes which are incapable of either passing through or providing an output for an 8 VSB signal to the consumer, or that cannot support broadcasters' PSIP data. The Commission should ensure that consumer access to the complete DTV bit stream is not defeated by the set-top box deployed by the cable operator.

With regard to cable compatibility issues, the record supports the Commission's taking a transitional approach, adopting rules which, *at each stage of the transition,* safeguard the ability of cable subscribers to access DTV signals and all related data transmitted by broadcasters. To accomplish this, Philips recommends the Commission, first, initially require cable operators to provide, by whatever means suitable to the cable operator, an 8 VSB output for direct connection to the consumer's DTV receiver, and to enforce this obligation until the Commission determines that an acceptable alternative solution is universally available to consumers. Philips is heartened by recent announcements by Time Warner and Cablevision that they will provide their subscribers, albeit on a limited basis, with such an output and believe these announcements

demonstrate the feasibility of this approach.[2] Second, and perhaps most importantly, the Commission should do everything in its power to encourage industry adoption of standards that will enable manufacturers to design cable-ready DTV receivers, through an open and formal standards-setting process, thus enabling cable consumers to access DTV signals without the need to purchase or rent a cable set-top box.

With respect to the core "must carry" issues raised in the NPRM and addressed at great length by cable and broadcast commenters, Philips urges the Commission, should it adopt the "phase-in" approach suggested by several commenters, including MSTV,[3] to establish clear and enforceable deadlines implementing such an approach so as to provide consumer electronics manufacturers sufficient certainty and prevent the accumulation of inventories of set-top devices that are incapable of or inadequate in delivering terrestrial HDTV services to cable consumers.

Finally, the record does not support the Commission's readdressing its earlier decision to allow the marketplace to drive the design of DTV receivers. This intensely competitive marketplace is consumers' best ally in ensuring that their DTV investments operate at maximum levels of performance. The same holds true with respect to government mandates on A/B switches and the advancement of over-the-air antenna technology: fierce competition among consumer electronics manufacturers, not a government mandate, will lead to advances in DTV receiver technology and ensure consumer happiness with their purchases.

Many of the comments filed in this proceeding address issues that were discussed in Philips' initial comments or in comments filed by its trade association, CEMA, the reply comments of which Philips also supports by reference. Accordingly, these reply comments

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[2] *See* discussion II (c) *infra.*

[3] *See* Comments of MSTV at 52.

address only those issues Philips believe deserve further emphasis, elaboration or clarification.

II. DISCUSSION

A. The Record Supports The Need To Ensure That Cable Operators Carry DTV Signals Without Material Degradation and In Their Full Integrity.

Philips devoted a substantial portion of its initial comments in this proceeding to the necessity for the Commission to protect the ability of consumers to choose their own path through the digital transition. Specifically, Philips urged the Commission to adopt rules that require a cable operator that carries a broadcaster's DTV signal to retransmit that signal without material degradation of any kind.[4] In the digital context, Philips defined material degradation to include, *inter alia*, any downconversion of a high definition video format to a video format of lower or standard resolution.[5] Philips also requested that the Commission protect the integrity of broadcasters' 6 MHZ channels by prohibiting the removal of any portion of the bit stream carried within the 6 MHZ channel, including all PSIP and User Data.[6]

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[4] *See* Comments of Philips at 8-10.

[5] Id. at 10.

[6] Id.

Nearly every non-cable entity in this proceeding -- including broadcasters,[7] consumer electronics manufacturers[8] retailers,[9] and others[10] -- support the need to ensure that consumers receive digital signals and programming services in their original quality and without material degradation. With the exception of the core must carry debate, the importance of ensuring no material degradation of DTV signals and ensuring cable carriage of the broadcasters' 6 MHZ DTV channel in its entirety is stressed more than any other issue addressed in this proceeding.

With very few exceptions,[11] cable industry commenters have chosen to remain silent on the issue of material degradation of DTV signals, focusing their comments exclusively on whether they should be required to carry DTV under some form of must carry, but leaving the Commission with very little insight into *how* and in *what quality* they will deliver these signals to consumers when they are carried.[12] But while the cable industry's reluctance to engage in a

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[7] *See* Comments of ALTV at 62; Barry Telecommunications at 5; Benedek et. al. at 19; Capitol Broadcasting at 4; Chris-Craft/United Group at 4; Cordillera at 4; Corporation for General Trade at 13; Entravision at 10; Golden Orange Broadcasting at 6; Granite Broadcasting at 9; KSLS/KHLS at 2; Lee Enterprises at 6; Maranatha at 6; Morgan Murphy and Cosmos Broadcasting at 10; MSTV at 28; NAB at 40; NBC at 4; NASA at 2; Named State Broadcasters at 5; Pappas Telecasting at 20; Paxson at 29; Pegasus Communications at 6; Pikes Peak Broadcasting at 11; Public Broadcasters at 44; Retlaw Enterprises at 4; Shockley Communications at 4; Sinclair at Note 5; Station Representatives Association at 8; and UPN Affiliates at 4.

[8] *See* Comments of Philips at 2; CEMA at 13; Harris at 7; Sony at 8; MECA at 10; and Zenith at 2.

[9] *See* Comments of Circuit City at 6.

[10] *See* Comments of Gemstar/Starsight at 18; and National Datacast at 2.

[11] *See* Comments of HBO/TBS at 6; and Pegasus (which owns one cable system in Puerto Rico) at 6.

[12] Time-Warner, for example, points to recent efforts to upgrade the capacity of its systems to accommodate "digital applications," predicts that "these applications will undoubtedly include HDTV," but stops short of committing not to degrade HDTV signals to a lower format (*i.e.,*

dialogue on these extremely important issues is truly regrettable, it should not deter the Commission from acting decisively to give America's 70 million cable consumers the certainty that their cable company will not act as a barrier to their full enjoyment of DTV products and services, and that the consumer will be able to make the transition to DTV in a manner that suits *his or her own* preferences and budget.

Philips notes that several commenters share its belief that specific technical and operational requirements are not only necessary, but can be established independently of the Commission's must-carry proceeding.[13/] For example MSTV urged the Commission to settle cable carriage issues that are not dependent on particular must-carry requirements.[14/] MSTV specifically highlighted the need to carry the prohibition against material degradation into the digital environment: "The quality of broadcast signals carried on cable systems will probably be even more important during the digital transition, when the technical superiority of digital programming services could drive the transition and attract the loyalty of early viewers."[15/]

The adoption of minimal technical and operational requirements that prohibit material degradation of broadcasters' DTV signals, and that mandate full carriage of the full 6 MHZ broadcast signal is necessary to prevent any cable operator -- intentionally or unintentionally -- from acting as a gatekeeper that could restrict consumer access to the full quality of broadcasters'

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downconverting 1080-i to 720-p). *See* Comments of Time-Warner at 5-6.

13/ *See* Comments of MSTV at 20; and Thomson at 7.

14/ *See* Comments of MSTV at 20.

15/ *Id* at 30.

DTV signals, and the full functionality of consumer electronics manufacturers' DTV receivers.[16]

B. In the Event DTV Carriage Obligations Are Imposed on Cable Operators According to a "Phased-In" Approach, the Commission Should Establish Clear and Enforceable Deadlines and Take Steps to Prevent An Accumulation of Inferior Set-Top Devices in the Market.

To date, Philips has refrained from commenting directly on any of the specific must-carry proposals laid out in the Commission's *Notice*.[17] Indeed, the voluminous record generated by cable operators, broadcasters and others; and the breadth of arguments -- constitutional, legal and practical -- for and against mandating carriage of broadcasters' DTV signals over cable systems during or after the transition, suggests that a final resolution of these issues may elude the Commission, and potentially the courts, for some time to come. However, should the Commission adopt some form of a "phased-in" approach to must-carry, as Commenters' have suggested,[18] Philips urges the Commission to adopt precise and enforceable deadlines implementing such an approach. Such deadlines are essential to consumer electronics manufacturers, such as Philips, who design and manufacture product according to a well-established and very precisely-timed 18-month production timetable of their own. If the

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[16] In that regard, Philips is particularly concerned that manufacturers of cable set-top boxes, such as General Instrument ("GI") are designing -- and cable systems are deploying -- devices that cannot support the PSIP protocol. *See* Comments of GI at 6-7. Consumers equipped with such a flawed device will have no access to broadcasters' unadulterated PSIP data, and would either be forced to rely on proprietary program guides supplied by the cable provider, or to purchase a DTV receiver with an additional tuner, adding unnecessary additional costs to an already expensive investment. Such a scenario is the antithesis of the consumer-friendly approach to DTV for which the Commission has long strived.

[17] As a general matter, Philips associates itself, by reference, with the views expressed by CEMA in its Comments and Replies in this proceeding concerning the obligation of a cable operator to carry a broadcaster's analog *and* digital signal during the transition period.

[18] *See* Comments of MSTV at 52; Arkansas Broadcasters at 5; Pappas Telecasting at 24 (for top 25 markets); Pikes Peak at 7 (for top 25 markets); Polar Broadcasting at 1; Trinity Broadcasting at 5; Benedek et al. at 25-26; and Capitol Broadcasting at 3.

Commission's adoption of a "phased-in" approach to must carry does not carry with it clear, fixed schedules for its implementation (either on a global, market-by-market or system-by-system basis) manufacturers will continue to face problems integrating features into their manufacturing cycles as the transition continues.

Moreover, Philips is also concerned with the effect a "phased-in" must carry regime would have on the accumulation of legacy digital set-top receivers in the marketplace that are incapable either of passing through broadcast-delivered DTV signals in their native format, or, as discussed *supra,* supporting important navigational data such as PSIP. By its very definition, a "phased-in" approach allows, for some period of time, cable operators to continue business as usual, which in some instances means the deployment of set-top devices that limit cable consumers' access to the full abundance of services that otherwise would be available to them off-air. Replacing or retrofitting these devices to comply with a cable operator's must-carry obligations once it is phased in would be extremely problematic. The incentive for cable operators to deploy such devices could therefore be substantial. Therefore, the Commission's decision to adopt a "phased-in" approach should be accompanied by a requirement *beginning immediately* that cable set-top boxes are universally capable of carrying broadcast-delivered DTV signals without material degradation (*i.e.,* in their native format) and without diminution of any of the data, including PSIP and User Data, carried in the 6 MHz channel.

C. The Record Supports Adopting a Transitional Approach to Cable Compatibility Issues.

Philips believes that the record fully supports the Commission's taking a transitional approach to the cable compatibility issues it raised in the *NPRM*, ensuring, above all else, that cable consumers have access to broadcaster's DTV signals in their full quality and integrity *at*

every phase of the transition. Indeed, the imposition of virtually any DTV must carry requirement would be meaningless if cable incompatibility stands as a technical barrier to consumer access to broadcasters' DTV signals.

In its initial comments, Philips urged the Commission to require, upon the initiation of DTV service this fall, cable operators to provide an ATSC-compliant (*i.e.,* 8 VSB) output for input to a DTV receiver, and to extend such an obligation until there is a reasonable and universally available alternative for consumers to obtain cable-DTV receiver compatibility. The record reflects support for such a requirement from several parties,[19] as well as recognition that requiring an 8 VSB output to the consumer's DTV receiver would impose no major technical obstacles to cable operators.[20] Indeed, recent announcements by two major cable MSOs, Cablevision and Time Warner, that they will pass through HDTV signals in 8 VSB reveal that such an output is not only possible, but practical and desirable to ensure DTV consumers' access to digital cable programming.[21]

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[19] *See* Comments of CEMA at 22, Philips at 7, Zenith at 3, and Harris at 8.

[20] *See* Comments of ALTV at 49. (ALTV states that "is aware of no technical impediment to transmission of DTV signals on analog systems. The system would be required to provide no more than the raw DTV signal as it was broadcast to its subscribers. No investment in extensive processing equipment or new set top boxes would appear necessary. Nonetheless, a subscriber who wished to purchase a DTV receiver could do so with confidence that the local cable system would not interdict local television stations' DTV signals. As long as the DTV receiver could process the off-air signal, the subscriber could enter the world of DTV.")

[21] *See,* Glen Dickson, *MSG Goes Hi-Def,* BROADCASTING & CABLE, November 2, 1998, at 43 (reporting on CableVision's recently announced plans to transmit full HDTV broadcasts of Madison Square Garden sporting events using the ATSC-compliant 8 VSB modulation); *See also* Lawrie Mifflin, *Time Warner and CBS in Pact on Digital TV,* NEW YORK TIMES, December 12, 1998, at C2 (reporting on announcement that Time Warner Cable will carry the digital signals, including HDTV signals, of CBS's 14 owned television stations); *See also TCI Says Antennas Are Answer for Customer's DTV,* COMMUNICATIONS DAILY, December 10, 1998, at 3 (quoting a Time Warner spokesman as saying that Time Warner "will pass through CBS signals at original VSB modulation...").

Philips also suggested the Commission not rely on the IEEE 1394 interface standard ("the 1394 interface") as a "panacea" for interoperability, instead urging the Commission to take all necessary steps to encourage the rapid development of industry standards for "cable-ready" DTV receivers, which represent by far the most technically elegant and consumer-friendly approach to cable compatibility.

With respect to the 1394 interface, Philips and others have expressed a growing concern that such an approach to DTV-cable compatibility is neither technically ideal nor overly consumer friendly.[22/] The IEEE 1394 interface is, at best, an interim, suboptimal solution which will still take years to implement fully pending agreement by multiple parties on a copy protection system. Several commenters echo this caution, including broadcasters and other entities intimately familiar with consumers' preferences in home electronics purchases. They correctly note, as Philips has, that a 1394-based approach to compatibility needlessly prolongs consumer dependence on external set-top devices[23/] and, places cable operators -- not consumers -- in control of determining how and what DTV data flows to the end user.[24/] Most importantly, these expert commenters agree that the Commission should avoid latching on to solutions that may soon become obsolete, particularly when more technically elegant and consumer-friendly options -- notably "cable-ready" DTV receivers -- are achievable.[25/]

Philips has long believed that standards for cable-ready DTV receivers represent by far the most consumer friendly approach to DTV-cable compatibility and that their development by

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[22/] *See, e.g.,* Comments of MSTV at 42, Philips at 13; and Circuit City at 9.

[23/] *See* Comments of MSTV at 42, Philips at 13; Circuit City at 9.

[24/] *See* Comments of MSTV at 42.

[25/] *See* discussion *infra* on industry standards for cable-ready DTV receiver standards.

industry should be encouraged strongly by the Commission. Multiple commenters, including consumer electronics manufacturers, retailers, broadcasters and a cable programmer, support this view,[26] and Philips was heartened by Chairman Kennard's expressed support for cable-ready DTV standards in a recent speech.[27]

Unlike the IEEE 1394 approach, the availability of cable-ready DTV receivers will enable DTV manufacturers to include an unlimited array of features without risk of their being disabled by a set-top device and without risk of redundant capabilities for which consumers should not have to pay twice. Philips again urges the Commission to press for timely adoption of acceptable standards for cable-ready DTV receivers through an appropriate standard-setting body, such as CEMA, with the full participation of all affected industries.

D. The Record Confirms There is No Basis on Which to Revisit the Commission's Decision to Allow the Marketplace to Drive DTV Receiver Design.

In its original comments in this proceeding, Philips provided a detailed review of the off-air reception performance capabilities of current DTV receivers.[28] This review included a critical analysis of field tests conducted by some in the broadcast industry (concluding that the extremely limited scope of the tests, combined with their use of immature DTV implementations, rendered data wholly insufficient to merit the dire predictions of some broadcasters). Philips explained that DTV receiver manufacturers will continually incorporate refinements and

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[26] *See* Comments of Philips at 13; Circuit City at 8; CEMA at 21; NAB at Attachment G, Note 1; MSTV at 3; MECA at 4; HBO/TBS at 33; and Sinclair at 3.

[27] Remarks of William E. Kennard Chairman, Federal Communications Commission to the "Dawn of Digital Television" Summit Meeting; Washington, D.C., November 16, 1998 (As prepared for delivery). ("[P]rogress on defining interoperability standards for digital cable ready sets must be made, so that consumers have the choice <u>not</u> to have a separate set-top box.")

[28] *See* Comments of Philips at 14-19.

improvements to meet consumers' demands for high levels of off-air performance.[29] While a recitation of the earlier arguments is unnecessary, Philips is compelled to refute for the Commission's benefit certain wholly unsubstantiated claims regarding the off-air reception capability of DTV receivers.

Specifically, one commenter, arguing that the Commission should adopt a standard to govern receiver sensitivity levels to ensure adequate over-the-air reception, states:

> [T]here is substantial evidence that DTV reception by receivers with indoor antennas is likely to be problematic, and that . . . [t]here is also evidence that reception through outdoor antennas may not live up to the expectations of American consumers . . . Clearly the Commission must confront the DTV over-the-air reception problem head-on, and adopt the equipment standards necessary to ensure that consumers can reliably receive over-the-air DTV service."[30]

These calls for intrusive regulation by the FCC in the area of off-air reception are nothing more than a recitation of old arguments previously considered and rejected by the Commission based upon stale data and anecdotal information which has been refuted powerfully by the actual experience with DTV over-the-air reception since November 1, 1998. Such unsupported claims simply cannot be the basis for the Commission to reverse its long-standing policy of allowing the competitive marketplace to set minimum performance standards for television receivers.[31]

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[29] *See* Comments of Philips at 19.

[30] *See* Comments of Sinclair at 2-3.

[31] *See Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, MM Docket 87-268, 13 FCC Rcd 7418, 7486-7487 (1998) ("We continue to believe that competitive market forces will ensure that DTV receivers perform adequately. We note that receiver performance involves trade-offs among many different factors. We continue to believe that the television manufacturers are in the best position to determine how these trade-offs should best be made to meet consumer demand.")

Philips is committed to ensuring that its DTV customers will be able to receive reliably every broadcaster's DTV signal within the specified market area served by the DTV broadcaster. Without such a commitment to consumer satisfaction, consumers would abandon Philips in favor of better performing consumer electronics equipment. There should be no doubt as to manufacturers' commitment to produce fully functional DTV receiver equipment, nor the marketplace's power to drive that commitment. In the intensely competitive consumer electronics marketplace, FCC-mandated equipment standards will not only serve no necessary function, they will actively stifle competition.

Similarly, the Commission should reject arguments by some to require that all receivers contain an A/B switch to enable selection from among multiple video sources.[32/] There is absolutely no need for a government mandate for A/B switches. Many television receivers, in fact, have multiple inputs of various types that are selected by remote control. Many manufacturers, including Philips, will be offering their own versions of remote controls or other devices which incorporate various input selection devices that enable consumers to select among broadcast, cable, VCR and other media. In addition, inexpensive manual A/B switches are readily available to consumers at various retail locations. There simply is no basis for a Commission mandate regarding A/B switches where there is abundant evidence that a competitive market is already meeting any need that may exist and is doing so in a manner that provides more choices and better performance to consumers.

III. CONCLUSION.

The record established in this proceeding leaves no doubt that what must ultimately drive the transition to DTV is what best serves *consumers'* interests. To ensure that these interests

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[32/] *See* Comments of Sinclair at 8.

remain paramount during the transition, the Commission should adopt rules which ensure that cable consumers can enjoy the full benefits of DTV; and that no gatekeeper, be it a cable operator or any other distributor of DTV programming, is allowed to deny customers such access, either by refusing to carry broadcasters' DTV signals in their original format and in their entirety, or by disabling any of the functionality consumer electronics manufacturers will build into their DTV products. Accordingly, the Commission should adopt rules which, whether based upon a cable operator's must carry obligations or a set of minimum technical standards governing the retransmission of broadcasters' DTV signals: (1) require cable operators to retransmit broadcasters' DTV signals without degradation of any kind (*i.e.,* in no less than its original format); and (2) require cable operators to carry and maintain the integrity of data contained in the entire 6 MHZ broadcast channel for every DTV broadcast signal that it retransmits, including all PSIP data and USER data.

Philips again urges the Commission to take a transitional approach to ensuring cable compatibility with DTV, initially requiring cable operators to provide an ATSC-compliant (8 VSB) output to the DTV receiver (and continuing to do so until such time as an alternative method to access DTV signals via cable is ubiquitously available), while simultaneously encouraging industry adoption of standards for cable-ready DTV receivers through an open and transparent standards-setting process.

Philips will implement improvements, introduce new features and address any difficulties consumers may confront in response to the same market pressures that have honed the existing and intensely competitive consumer electronics market to date and which obviate the need for government mandated standards for DTV receivers.

Respectfully submitted,

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