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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

December 8, 2000

Chairman William E. Kennard
Commissioner Susan Ness
Commissioner Harold Furchtgott-Roth
Commissioner Michael K. Powell
Commissioner Gloria Tristani
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Re: Digital Transition (WT Docket No. 99-168;
CS Docket No. 98-120)**

Dear Chairman Kennard and FCC Commissioners:

As Chairman of Paxson Communications Corporation ("Paxson"), the owner of the largest television group in the United States and the 7th over-the-air broadcast network (PAXTV), I have written to you on a number of occasions over the past year on Commission proceedings involving digital television, the 700 MHz spectrum auction, the implementation of the Satellite Home Viewer Improvement Act of 1999 and the declaratory ruling request of WHDT-DT, Stuart, Florida. On behalf of Paxson, I have consistently stressed the importance of digital must carry for the television broadcast industry as it relates to cable and DBS and also for the FCC's implementation of the proceedings outlined above.

I write again in response to the November 14, 2000 letter sent to you by the Consumer Electronics Association ("CEA"). In that letter, Gary Shapiro, President of CEA, accurately noted the importance of digital must carry to a successful completion of the DTV transition. Paxson agrees wholeheartedly with CEA's assessment in this regard and once again urges the Commission not to delay any longer in issuing its digital must carry decision in CS Docket No. 98-120.

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However, CEA, in its letter, also urged the Commission to take action with regard to digital programming content and not to take action with regard to digital receivers. Paxson respectfully notes that the first CEA proposal (to require broadcast networks to air some minimum of HDTV and DTV programming) has already been considered and rejected by Congress while the second proposal (regarding all channel receivers) has previously been considered and approved by Congress. In short, Congress has declined to impose HDTV programming minimums on the broadcast networks and has further refused to require television broadcast stations to broadcast in any particular digital format. However, with regard to television receivers capable of receiving digital as well as analog broadcast signals, Congress has already spoken. We believe that this is a critically important point for the Commission to consider and on which to take immediate action in an effort to jumpstart the DTV transition.

In 1962, Congress passed the All Channel Receiver Act to assist the emergence of UHF broadcasting stations. That Act provided that the FCC had the authority to "require that apparatus designed to receive television pictures broadcast simultaneously with sound be capable of adequately receiving all frequencies allocated by the Commission to television broadcasting . . .". The legislative history indicates that the intent of Congress was to further development of adequate UHF service so that it could be competitive with VHF and to ensure that the FCC take into account future technology developments that may improve UHF reception. The current FCC regulations implementing this Act provide that "TV broadcast receivers shall be capable of adequately receiving all channels allocated by Commission to the television broadcast service." The congressional adoption and FCC implementation of the All Channel Receiver Act saved UHF broadcasting.

Similarly, in adopting rules governing the transition to digital television, the FCC decided that although the All Channel Receiver Act authorized the FCC to require manufacturers to produce receivers capable of receiving both DTV and analog channels, it would not require them to do so. At the time in 1996, the FCC believed that market forces would provide receivers that can access both types of signals and, thus, at the present time, manufacturers are not required to make dual-capable receivers. This Commission decision was plainly wrong.

The FCC should have used its authority under the All Channel Receiver Act to require dual analog and digital receivers after a date certain, i.e., January 1, 2001. The failure to act in this regard now presents a major impediment to the role-out of digital broadcasting in this country. The FCC should immediately correct its decision of 1996 and adopt rules implementing the All Channel Receiver Act for digital broadcasting.

In Chairman Kennard's October 20, 2000 speech at the Museum of Television and Radio in New York City, he labeled television broadcasters as "spectrum-squatters" and proposed legislative remedies to penalize television broadcasters for "squatting on empty spectrum". The only reason that television broadcasters are forced to "squat" on spectrum is that the FCC has refused to create the environment for broadcasters to grow and develop the digital spectrum which is a prerequisite to the relinquishment of the analog spectrum. Critical decisions involving the DTV transition are today caught in regulatory gridlock at the FCC. As this Commission is fully aware, we have a digital transmission system that may not work; we have a build-out schedule that ignores the unavailability of critical transmission equipment and the absence of FCC-authorized permits to build the new DTV stations; there are literally no digital receivers available in this country; and, there are no set compatibility standards as the satellite, cable and TV set manufacturing industries continued to bicker.

The FCC itself has created a squatters environment and to then point the finger at broadcasters who are forced to squat on the spectrum is disingenuous. Broadcasters are forced to wait for the FCC to conclude its two-year old proceeding to clearly articulate their DTV must carry rights. The public comment period in this proceeding ended two years ago this month on the 22nd of December, 1998 and the FCC has yet to act. By now, not only should the FCC have promulgated the cable DTV must carry rules but it should have also issued DTV must carry rules for satellite carriers and, in fact, for all multichannel video providers via cable, satellite, DSL or other comparable means. The FCC's Report and Order released last week in CS Docket No. 00-96 in which it refused to address the issue of satellite carrier's digital broadcast signal carriage obligations was a disservice to all industries involved and further exacerbates a fundamental problem with the digital transition: The FCC's refusal to act promptly, to follow the law and to make the hard decisions necessary if the DTV transition is going to have any hope of success.

As Paxson has previously noted, the present failure of the DTV transition is having a negative effect on the conduct of the auctions for the broadcast spectrum in the 700 MHz band and eventually on the auctions for UHF Channels 52-58.

The Commission is fully aware of the linkage between a successful DTV transition and a successful Commission auction of analog spectrum. What is also equally obvious is the increasingly urgent need to locate the spectrum that can be used for third generation wireless systems in the United States. An Executive Memorandum dated October 13, 2000 from the White House directed certain federal agencies to identify such spectrum and the FCC and NTIA have both responded with initiatives in this regard. It has been obvious for some time that the 700 MHz spectrum currently occupied by broadcast stations will provide an invaluable source of 3G spectrum. The auction of the 700 MHz spectrum is now scheduled for March 6, 2001 and, as

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we have previously argued, that auction should be held as scheduled and can be expected to be a huge success for both wireless users and the U.S. Treasury if digital must carry has been adopted by the FCC. The failure to act on the digital must carry issue in a timely fashion could have a devastatingly negative impact on the 700 MHz auction, on the 3G revolution and ultimately on the economic well being of this country.

In summary, the CEA letter highlights some of the problems we are experiencing in the DTV transition but misses the point on necessary and attainable solutions. The FCC currently has it within its power to adopt digital must carry rules and to require that television receivers be capable of receiving both analog and digital signals. This FCC shall act immediately on both of these critically important issues.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lowell W. Paxson". The signature is written in a cursive, flowing style.

Lowell W. Paxson
Paxson Communications Corporation