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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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December 15, 2000

BY HAND DELIVERY

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
12<sup>th</sup> Street Lobby B TW-A325  
Washington, DC 20554

EX PARTE OR LATE FILED

Re: *Ex Parte* Communication In the Matter of Review of the Commission's  
Rules and Policies Affecting the Conversion to Digital Television  
(MM Docket 00-39); and In the Matter of Carriage of the Transmissions of  
Digital Television Broadcast Stations (MM Docket No. 98-120). /

Dear Ms. Salas:

On Thursday, December 14, 2000, Lawrence R. Sidman and Sara W. Morris of Verner, Liipfert, Bernhard, McPherson & Hand, and Thomas Patton and Brian Smith of Philips Electronics North America Corporation ("Philips"), met with the following FCC Commissioners and/or their staff to discuss steps that could be taken to expedite the digital television transition:

- Commissioner Susan Ness
- Commissioner Harold Furchtgott-Roth
- Commissioner Michael K. Powell
- Karen Onyeije, Legal Advisor to Chairman Kennard
- David Goodfriend, Legal Advisor to Commissioner Ness
- Susan Eid, Legal Advisor to Commissioner Powell
- Paul Jackson, Special Assistant to Commissioner Powell
- William J. Friedman, Legal Advisor to Commissioner Tristani
- Rebecca Beynon, Legal Advisor to Commissioner Furchtgott-Roth
- Kevin Murphy, Assistant to Commissioner Furchtgott-Roth

The meetings focused in particular on the Commission's consideration of a proposal whereby television manufacturers – either as part of a voluntary effort or by FCC mandate – would incorporate DTV reception capability in all television receivers with screen sizes of certain

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Ms. Magalie Roman Salas

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dimensions by a date certain. Other topics discussed at these meetings included DTV/cable compatibility and the centrality of HDTV and other novel content and services to consumer acceptance of digital television. Philips views on these matters are reflected in the attached handouts, which were distributed at the meeting, as well as in Philips' comments and reply comments in the above-referenced proceedings.

In accordance with Section 1.1206 of the Commission's Rules, 47 C.F.R. §1.1206, an original and one copy of this letter, including attachments, are being filed with your office.

Please direct any questions concerning this matter to the undersigned.

Respectfully submitted,



Lawrence R. Sidman

cc (w/out attachments):

Commissioner Susan Ness  
Commissioner Harold Furchtgott-Roth  
Commissioner Michael K. Powell  
Karen Onyeije  
David Goodfriend  
Susan Eid  
Paul Jackson  
William J. Friedman  
Rebecca Beynon  
Kevin Murphy

Attachments

## **A DTV Reception Mandate Could Do More Harm Than Good to the DTV Transition**

Philips strongly supports the Commission's ongoing efforts to speed America's transition to digital television ("DTV"). Philips is taking all practicable steps, both on its own and in cooperation with the affected industries, to resolve each of the remaining issues affecting the DTV transition as quickly as possible, and in a manner that is both technologically sound and in the best interest of consumers. Philips believes that an FCC regulation mandating DTV reception capability in all television receivers, however, not only falls outside the Commission's statutory authority, but could imperil the DTV transition and the return of the NTSC spectrum, and impose substantial and unreasonable costs on consumers.

### The Commission Lacks Sufficient Authority To Adopt a "Dual Mode" Reception Mandate

- Reliance on the All Channel Receiver Act as granting the Commission sufficient legal authority to require DTV reception capability rests on an overly broad interpretation of the Act, which is belied by its legislative history and the Commission's own prior interpretation. Importantly, the Commission has twice declined to mandate the manufacture of so-called "dual-mode" television receivers, citing the lack of any such mandate under the ACRA.

### Even assuming the FCC possesses the authority to do so, a DTV Reception Requirement, Adopted in Isolation, Could Greatly Disrupt the DTV Transition and Impose Enormous Burdens on Consumers

- ***The Costs Associated With An Across-the-Board DTV Tuner Mandate Would Amount to An Extremely Regressive, Anti-Consumer "DTV Tax" That Would Slow, Not Speed, the Transition.*** An across-the-board mandate for DTV reception capability would add at least \$250-300 to the retail price of every TV, if required in 2003 – nearly triple the average selling price of a 13" TV and nearly double that of a 19" TV (the industry's 2 largest volume products)! Imagine the consumer revolt – particularly among lower-income groups – were the cost of purchasing the most widely bought televisions to double or even triple.
- The Consumer Federation of America has raised serious concerns about the effect of a DTV tuner mandate on the price of television receivers and has urged that such a mandate is unwarranted, particularly given its effect on consumers, especially low-income groups and their access to news and information.
- Given the highly volume-leveraged nature of the CE business, any significant volume drop-off due to customer "sticker shock" could have seriously detrimental effects on the pace of the transition, and would result in decreased investment by manufacturers and chip makers in more cost-effective, new generation DTV products – just the opposite of the desired result.

A DTV tuner requirement, properly crafted, should be considered, if at all, only as part of a global package in which other outstanding DTV transition issues were resolved in their entirety and in the proper sequence:

- DTV standard debate (8VSB and/or COFDM) – manufacturers can't be asked to build tuners into every receiver before they know which type of signal the tuners should be able to receive.

- Cable-DTV compatibility (including copy protection) – consumers can't be asked to pay more for television receivers that may not be capable of interoperating seamlessly with their cable system.
- Cable carriage of DTV signals – cable consumers cannot be asked to pay more to receive a DTV tuner when their cable operator may be able to strip or degrade the quality of local broadcasters' DTV signals.
- Availability of HDTV programming – consumers will only be attracted to DTV *en masse* when sufficient amounts of HDTV programming are available. The Commission should consider conditioning DTV license renewal to some minimum amount of HDTV provided.



**Consumer Federation of America**

**Fax Coversheet**

From Dr. Mark N. Cooper  
Director of Research  
Tel. 301/384-2204

To: Mike Feazel  
Communications Daily

Fax: 202-293-3435

Pages (including coversheet): 3

Comments:

**Consumer Group to FCC:  
DTV Yes, Costly Government Mandate No.**

For Immediate Release

For more information contact: Mark Cooper at (301) 384-2204

(Washington, DC/November 27, 2000) In a letter delivered today to Federal Communications Commission Chairman William Kennard, Mark Cooper, the Consumer Federation of America's Director of Research, urged the FCC not to require that by 2003 every television set over 13" have digital reception capability. In the letter Cooper supported Commission efforts to demand that broadcasters develop digital programming, but called on the Commission to refrain from imposing a government mandate that places "an unnecessary and unfair cost on America's consumers."

Full text of the letter follows.



## Consumer Federation of America

November 27, 2000

The Honorable William Kennard  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Kennard:

We agree with and strongly support the efforts of the Federal Communications Commission (FCC) to foster an orderly transition to digital television (DTV) and to ensure that Americans have over-the-air access to digital programming by 2006. We also believe that FCC efforts to ensure that broadcasters remain committed to the programming transition schedule that they agreed to when they received the digital spectrum are important and just.

We are concerned, however, with recent suggestions that the FCC will move to require that every analog television set over 13 inches have DTV reception capability by 2003. Such a mandate would mean that the price of television sets would increase dramatically – by hundreds of dollars per set.

We feel that such a move is unwarranted, for a number of reasons:

- The increase is completely unjustified and an unnecessary burden on all consumers. It would impact low-income consumers most.
- Indeed, some low-income consumers who need a new television set but are unable to afford it may potentially be priced out of the market, and so be cut off from the most important sources of news and information in our information society.
- Cheaper options, such as digital converters, will be undermined by such a mandate, because the market for upgrades to small analog TVs will not be very attractive.

The original idea was to stimulate consumer demand for digital receivers through the increased availability of digital programming. The broadcasters, who were given the use

of a valuable public resource - digital spectrum, were asked to develop programming for that spectrum. Because they were given free use of the spectrum (valued at as much as \$70 billion), it was fair that they bear the burden of developing the programming to pull consumers into the digital TV age.

The FCC's current proposal contradicts that fundamental logic. It seeks to *push* consumers towards a digital transition by forcing them to buy much more expensive sets. Imposing these costs on the public - because the broadcasters have reneged on their part of the bargain - is outrageous. This proposal represents a capitulation by the FCC to the broadcasters, whose refusal to provide more digital programming has already slowed the transition to digital TV. This proposal provides no real incentive to produce digital programming, because the new sets would still have analog capacity.

It is clear that keeping broadcasters on track to fulfill their commitment and meet the 2006 deadline for full digital programming is the most expedient way that we can ensure a complete and equitable conversion to DTV. We urge the Commission to continue to demand that broadcasters develop digital programming. We urge the Commission to refrain from enacting a government mandate that will place an unnecessary and unfair cost on America's consumers.

Sincerely yours,



Mark Cooper  
Director of Research

CC: The Honorable Susan Ness  
The Honorable Harold W. Furchtgott-Roth  
The Honorable Michael K. Powell  
The Honorable Gloria Tristani  
The Honorable John McCain  
The Honorable Ernest Hollings  
The Honorable Tom Bliley  
The Honorable John D. Dingell  
The Honorable W.J. Tauzin  
The Honorable Edward J. Markey