

MANDATORY DIGITAL TUNER PROPOSALS

1. **Proposals to mandate a digital television broadcast tuner in every TV are misdirected, anti-consumer, and unnecessary.**

Requiring the addition of a DTV tuner would add approximately \$250 to the price of a television. With Americans purchasing 25 million TV's per year, this cost increase would amount to a **\$5 billion new tax on consumers** in the middle of the worst economy in decades. Since less than 10% of Americans rely on an over the air signal for their television (as opposed to 70% for cable and 20% for satellite), this tax will be largely imposed on cable and satellite viewers who do not need a tuner.

Even if the cost of a tuner declines to \$100 or less, it would still represent an unprecedented price hike for a product that generally declines in price annually. Adding \$100 to the cost of a \$239 set selling at Wal-Mart makes little sense for a feature most consumers won't use. In fact, mandatory inclusion of a digital tuner would double or triple the retail price of the forty percent of TVs sold in the US that are 20" or less.

Consumers oppose a tuner mandate. Our survey shows that 92% of consumers oppose a DTV tuner mandate. It is little wonder that numerous groups representing consumers and those on fixed incomes have registered their opposition. Indeed, the Consumer Federation of America has said that of such a mandate:

"This would be an unnecessary and wasteful expense, especially on a short time frame. Under this scenario, consumers wishing to buy a television are forced to pay extra for equipment they may not need...To ask the public, which received nothing for the grant of spectrum to pay again by forcing them to purchase more expensive TVs that are far less useful is an outrage."

The best way to incentivise consumers to purchase tuners is to get more high quality, compelling broadcast programming on the air. As is customary in the CE industry, hardware sales are driven by content. Two-thirds of broadcasters did not meet their deadline for airing digital programming, raising questions for consumers over whether the amount of broadcast content will increase. It is essential that stations meet their commitments if consumers are to be expected to purchase digital sets.

Adding DTV reception capability to analog receivers is a costly and complicated task. The mandatory DTV tuner proposal ignores the additional costs involved in implementing DTV reception in an average set. Such a task involves the addition of a number of chips, circuitry, memory, filters and

substantial software and switching changes. For example, one manufacturer's cost breakdown filed in the FCC record (Thomson Multimedia, Comments in Docket 00-39 at p. 6) is as follows:

Mechanical Parts - \$30 - \$45
VSB Decoding Integrated circuit - \$25 - \$40
HD MPEG Decoder - \$40 - \$55
Memory - \$35 - \$50
Miscellaneous (e.g., circuit board) - \$45-\$55
Manufacturing costs/overhead - \$25-\$50

The total cost before retail markup is \$200-300.

2. **A tuner requirement is unnecessary because Americans already have a wide range of choices with respect to DTV tuners equipment.** 23 integrated DTV sets are currently on the market, as well as 17 set top boxes. Any American who wishes to purchase a DTV tuner already has numerous choices at the local retail store.

Requiring manufacturers to add a DTV tuner would also remove marketplace incentive for manufacturers to advertise DTV tuner capability. Since inclusion of a tuner would not differentiate products between competitors, manufacturers would have no reason to advertise DTV reception capability.

A tuner mandate could lead to expensive litigation and delays. Our experience with the V-Chip has demonstrated that patent owners become emboldened by a federal mandate, leading a to a proliferation of nuisance suits. A mandate will likely lead to extensive IP litigation, resulting in cost increases and delays in DTV production.

A tuner mandate would harm the growing flat panel and commercial display industries by raising costs and imposing design requirements that would make flat panel manufacture difficult or impossible. Over 45 million displays were sold last year for use in commercial settings such as airports and conference rooms. A mandatory DTV tuner would be an unnecessary feature for this equipment, which was never intended for use with over-the-air broadcasts. In addition, the flat-panel industry is expected to reach 3.2 million units by the end of the year according to Stanford Resources. The addition of a tuner in the display would make flat-panel manufacture difficult or impossible.

3. The Arthur D Little tuner mandate study commissioned by the broadcasters is flawed and misleading:

It ignores what economists call the Law of Demand—higher prices result in lower sales volumes. Instead, the report assumes that sales will continue to rise even as costs increase.

The penetration estimates are unrealistic. The survey admits that a tuner mandate will increase costs for at least a minimum period. The history of the television market is one of price decline, even as new features have been added. Few consumers would willingly pay even an additional \$100 for a 27" TV that includes capabilities most will not use.

The survey mistakenly assumes that manufacturers will be willing to engage in "forward pricing"—selling their products at a loss. More realistically, manufacturers would simply discontinue unprofitable product lines. If the broadcasters claim that televisions should be sold on a subsidized basis for their benefit, it is only fair that the subsidy come from the broadcast industry.

The survey conveniently ignores the role of content in driving the market. The history of our industry shows that hardware sales are driven by content. The survey makes no mention of the importance of high-value compelling content (or lack thereof) in determining the pace of tuner penetration.

4. Rather than imposing costs on all Americans to benefit less than 10% of households, a more effective approach would be for the FCC to focus on the 70% of Americans who subscribe to cable and enforce its regulations requiring the cable industry to support a national "plug and play" digital cable standard. This would instantly make 70 million cable homes potential participants in the DTV transition—these consumers could go to a retail store and buy an HDTV that does not need a set-top box and works perfectly with any cable system in the country.