

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Inquiry into Over-the-Air Broadcast) MB Docket No. 04-210
Television Viewers)

**REPLY COMMENTS OF THE
CONSUMER ELECTRONICS ASSOCIATION**

The Consumer Electronics Association (“CEA”) respectfully submits these reply comments in response to the Public Notice (“Notice”) in the above-captioned proceeding.¹

In its original comments, CEA provided data regarding why certain households do not subscribe to multi-channel video service providers (“MVPDs”)². Upon reviewing the comments filed in this proceeding, CEA hereby submits additional relevant information.

TELEVISIONS NOT CONNECTED TO MVPDs ARE NOT NECESSARILY USED FOR OVER-THE-AIR VIEWING

CEA discussed in its comments that in a substantial number of cable and/or satellite households, not every television is connected to the MVPD. This reflects each household’s conscious decision whether to use individual sets for paid viewing or for other purposes.³ However, CEA takes issue with several commenters’ incorrect assumptions that televisions not connected to MVPDs are used exclusively for over-the-air broadcast television.

¹ *Media Bureau Seeks Comment on Over-the-Air Broadcast Television Viewers*, MB Docket No. 04-210, *Public Notice*, DA 04-1497, 19 FCC Rcd 9468 (2004), comment deadlines extended, *Order*, DA 04-2002 (July 1, 2004).

² Comments of the Consumer Electronics Association (filed August 11, 2004) (“CEA Comments”).

³ *Id.* at 4.

For example, NAB claims that there are “28 million unwired analog sets in homes that subscribe to cable or satellite that will go dark.”⁴ Walt Disney Company posits that “consumers continue to rely on these additional unconnected television sets for broadcast service.”⁵ Sinclair Broadcast Group goes further to claim that “[a]pproximately 20 percent of all televisions are used exclusively for free, over-the-air analog reception.”⁶

These claims vastly inflate the number of televisions being used for over-the-air reception. According to our market research, while 32 percent of cable and/or satellite subscriber households have at least one television *not* connected to the subscription service, 75 percent of households are affirmatively reserving at least one television exclusively for use with a VCR, video game system and/or DVD player. This means that among cable and/or satellite households, approximately 80.7 million sets are not connected. Thus, of those sets, an estimated 60.5 million sets are used solely with a VCR, video game system and/or DVD player.

These numbers are significant. Some commenters’ erroneous assumptions that all unconnected televisions are used *only* for over-the-air broadcasts entirely overlooks the very important fact that U.S. consumers use millions of “unconnected” televisions for purposes unrelated to OTA broadcasts.

THE BROADCASTERS MUST JOIN OTHER AFFECTED INDUSTRIES AND DO THEIR SHARE TO EDUCATE CONSUMERS

PSAs and Educational Programming are Necessary

CEA has consistently demonstrated its commitment to consumer education throughout the DTV transition by its actions and programs, as discussed in our comments in this and related

⁴ Comments of the National Association of Broadcasters, at 2 (filed August 11, 2004) (“NAB Comments”).

⁵ Comments of Walt Disney Company, at 2 (filed on August 11, 2004) (“Walt Disney Comments”).

⁶ Comments of Sinclair Broadcast Group, at 4 (filed on August 11, 2004) (“Sinclair Comments”).

proceedings.⁷ CEA, therefore, fully supports NAB's proposed solution toward educating OTA households regarding the digital transition.

In its comments, NAB offers that "...sustained, ubiquitous promotion and education about DTV, on the part of all industries, to encourage more and more consumers (particularly those in OTA households) to purchase DTV."⁸ Ironically, this is the precise sort of effort that has been sorely lacking on the part of the broadcasters – and one that is so desperately needed.⁹ Not only would Public Service Announcements ("PSAs") and other educational broadcast programming regarding DTV enable consumers to make "more informed purchase decisions," but PSAs also would reach the very viewers most affected by the DTV transition: those that rely on over-the-air reception. No other industry can reach those viewers with the same precision or better emphasize the importance of the message. After all, these are *broadcasters* promoting the availability of *broadcasting*.

Yet, at the Media Bureau's recent DTV meeting with affected industries, broadcaster representatives rejected suggestions that they air PSAs. Broadcaster representatives explained to the FCC that they were unwilling to air PSAs regarding DTV because of the large volume of PSA requests that broadcasters receive.

We commend the broadcast industry on changing its position regarding the value of PSAs. CEA urges the Commission to now hold NAB to its word and encourage broadcasters' airing of PSAs and providing "sustained, ubiquitous promotion and education about DTV." Given the effectiveness of advertising in the U.S. marketplace, perhaps a "Tune In" message in

⁷ See CEA Comments, at 6-7. See also CEA's filings in MB Docket Nos. 03-15 and 04-227 for a fuller explanation of the many CEA educational efforts focused on consumers and salespeople.

⁸ NAB Comments, at 9.

⁹ See CEA Comments, at 5 (regarding efforts that broadcasters can undertake to promote consumer awareness).

broadcast program advertising is another easy way to repeat the message regarding the availability of digital channels.

In addition, CEA agrees with some of the consumer education proposals set forth by the Association of Public Television Stations (APTS) that were based on the Berlin experience,¹⁰ and urges APTS to work closely with NAB to bring some of its proposals to fruition.

Government Labeling Requirements are Not an Effective Way to Educate Consumers

In light of the broadcast industry's general reluctance to air PSAs aimed at educating over-the-air viewers, its insistence that the Commission impose government warning labels on analog-only sets is seriously misplaced. It is unfortunate that NAB seeks to thrust upon others the primary burden of educating consumers, especially when CEA and other parties have devoted substantial resources toward this critical effort.

CE manufacturers have every incentive to ensure that consumers are well informed about the capabilities of the products they purchase. Misinformed consumers result in disappointed purchasers, product returns, and economic loss. CEA has consistently opposed imposition of mandatory government labels not just based on a lack of evidence that labels would help more than hurt education efforts, but because labels for sets by their nature would be cursory and uninformative.

As technologies and styles change, regulatory labels for DTV sets would quickly become outdated. Further, labels on analog-only sets would mislead and confuse: there is no definite NTSC shut-off date; and analog sets will continue to be useful to consumers who use them for cable, DBS, VCRs, DVDs, and gaming.

¹⁰ See Comments of Association of Public Television Stations (APTS), at 27 (filed on August 11, 2004) ("APTS Comments").

The CE industry wants consumers to learn everything possible about DTV and to have every incentive to purchase new widescreen digital sets, and consumer purchases reflect the success of our efforts. Cursory and possibly misleading mandated labels will not move consumers to appreciate the benefits of digital sets and move the transition forward.

CEA has played a uniquely prominent role in educating consumers about DTV.¹¹ NAB's proposed labeling requirement should be summarily rejected.

MORE THAN EIGHTY-FIVE PERCENT OF HOUSEHOLDS WILL HAVE OVER-THE-AIR DTV CAPABILITY BY 2010

CEA emphasizes that there will not, and cannot, be a viewer-friendly end to the "broadcast" DTV transition unless and until the FCC concludes its cable carriage proceeding and MVPDs are prepared to comply with their carriage requirements when analog broadcasting ceases. Only in this manner can viewers be assured of an effective transition.

Achieving and exceeding the 85-percent penetration rate is further advanced by the proliferation of DTV sales. NAB correctly notes that "a substantial percentage of OTA households will likely have purchased DTV-capable receivers by the time analog broadcasting ends."¹² As CEA reported in its comments regarding the Commission's 2004 *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, sales of digital products are so strong that CEA consistently has revised upward its projections for DTV sales.¹³ In its comments, CEA reported that it predicts that 5.9 million units will be sold in 2004,

¹¹ See CEA Comments, at 6-7 (regarding CEA's significant consumer education efforts).

¹² NAB Comments, at 9.

¹³ See *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 04-227, Comments of the Consumer Electronics Association (filed July 23, 2004), at 4.

9.74 million in 2005, 16.2 million in 2006 and 23.9 million in 2007.¹⁴ CEA expects that by 2010, more than 90 million DTV sets will reside in American homes, and well over 85 percent of American homes will contain sets with DTV tuners.

As previously reported, we expect the percentage of sets with OTA capability to increase steadily because DCR sets with integrated OTA reception are now entering the market in volume and the Commission's terrestrial DTV tuner requirement has now taken effect.¹⁵

CONCLUSION

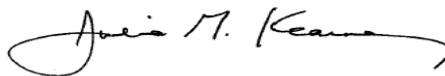
CEA reiterates that in households that subscribe to cable and/or satellite services, most unconnected sets are not used for watching over-the-air television. Instead, these sets are reserved for use with a VCR or DVD player, or with a video game system.

CEA urges the FCC to work with NAB and APTS to ensure that more efforts are made to educate consumers about the transition, especially by broadcasters. For its part, CEA has committed to continuing its DTV educational efforts; but we believe that by definition, broadcasters are uniquely able to effectively reach their over-the air viewers with DTV information via PSAs and other means. Broadcaster participation in educational efforts and the Commission's clarification of carriage requirements will minimize potential transition difficulties on the part of over-the-air viewers when broadcasters change to exclusively digital signals.

¹⁴ See CEA Press Release, *First Half 2004 DTV Sales Take The Gold: Cumulative Sales Top 11.7 Million Units*, dated August 28, 2004; See also CEA Press Release, *After Record-Breaking First Quarter, April Sales Continue the DTV Climb*, dated June 16, 2004. This compares to our prediction last year that 5.8 million would be sold in 2004, 8.3 million in 2005, 11.9 million in 2006 and 16.2 million in 2007; See CEA Comments in MB Docket No. 03-172 at 4 (dated Sept. 11, 2003). The figures above represent an update based upon year-to-date trends.

¹⁵ Based on CEA's factory-to-U.S.-dealer shipment data and consumer surveys, approximately 600,000 DTV sets and 660,000 set-top boxes that include DTV tuners have been sold.

Respectfully submitted,



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