



## SUMMARY

Free, over-the-air DTV service is available in virtually every corner of the United States, with nearly 1,500 U.S. television stations broadcasting a digital signal. Unfortunately, many consumers are unable to enjoy these benefits because they do not generally have access to DTV receivers. The continued presence of analog-only sets in the marketplace, especially within the popular 25-35 inch set-size range, necessarily decreases the likelihood that a given market will soon reach the 85 percent statutory threshold for concluding the digital transition. Aware of this impediment to the digital transition, the Commission wisely adopted its *DTV Tuner Order* requiring (among other appropriate deadlines) that 50 percent of new sets in the 25-35 inch range include DTV reception capability by July 1, 2005. By virtually guaranteeing that more analog-only sets will be sold this year, the efforts of CEA and CERC to eliminate that deadline will undermine the goals of Congress, the Executive Branch, and the Commission to bring the digital transition to a successful conclusion in a timely fashion.

Were the Commission to nevertheless eliminate the July 1, 2005 deadline, MSTV and NAB urge that it mitigate the resulting public interest harms by requiring manufacturers to include DTV tuners in all new 25-35 inch sets by late 2005. Such action would ensure that 25-35 inch DTV receivers are widely available during the crucial holiday and Super Bowl seasons, when consumers (as CEA itself recognizes) are most likely to purchase receivers. In contrast, because it would deprive consumers of widespread access to 25-35 inch DTV receivers during that important selling season, the CEA-CERC proposal to advance the 100 percent requirement a mere four months from July 2006 to March 2006 would be of little value.

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
Requirements for Digital Television Receiving ) WT Docket No. 05-24  
Capability )

To: The Commission

**JOINT COMMENTS OF  
THE ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC. AND  
THE NATIONAL ASSOCIATION OF BROADCASTERS**

The Association for Maximum Service, Inc. (“MSTV”) and the National Association of Broadcasters (“NAB”)<sup>1</sup> submit these comments concerning the proposal of the Consumer Electronics Association and the Consumer Electronics Retailers Coalition (“CEA-CERC”) to (1) eliminate the requirement that 50 percent of new TV receivers with screen sizes 25-35 inches must include DTV reception capability by July 1, 2005 (the “50 percent requirement”), and (2) advance the date on which 100 percent of such receivers must include that capability from July 1, 2006 to March 1, 2006 (the “100 percent requirement”).<sup>2</sup> MSTV and NAB are concerned that elimination of the 50 percent requirement will curtail consumers’ access to and acceptance of digital technology at a crucial point in the transition to digital television. To mitigate those public interest harms, if the Commission eliminates the 50 percent requirement, it

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<sup>1</sup> MSTV is a non-profit trade association of local broadcast television stations committed to achieving and maintaining the highest technical quality for the local broadcast system. NAB is a non-profit, incorporated association of radio and television stations that serves and represents the American broadcast industry.

<sup>2</sup> *Requirements for Digital Television Receiving Capability*, Notice of Proposed Rulemaking, FCC 05-17, ET Docket No. 05-24, at ¶ 1, n.2 (rel. Feb. 14, 2005) (“*Notice*”), describing Petition for Rulemaking, Consumer Electronics Association and the Consumer Electronics Retailers Association (filed Nov. 5, 2004).

should advance the 100 percent requirement to coincide with the late 2005/early 2006 holiday and Super Bowl selling seasons.

**I. THE COMMISSION SHOULD NOT ALLOW MANUFACTURERS AND RETAILERS TO DELAY THE INTRODUCTION OF DTV TUNERS INTO THE MARKETPLACE.**

There are two fundamental prerequisites to a successful DTV transition: the availability of DTV transmissions and the availability of equipment to receive those transmissions. Overcoming significant technical and financial challenges, local television broadcasters have virtually completed the transmission piece of that equation. Indeed, the Commission recently reported that 1,497 of the 1,697 U.S. television stations with a DTV construction permit or license are broadcasting a digital signal.<sup>3</sup> Over-the-air DTV service is available in virtually every corner of the United States. Broadcasters have taken these steps even though they must invest millions in capital per station to broadcast a digital signal to a very limited number of over-the-air digital receivers and while manufacturers continue to sell approximately 20 million new analog television receivers each year.<sup>4</sup>

The critical issue now to be addressed is the second prong of the DTV equation; American consumers need access to DTV receivers if the DTV transition is to succeed. As the Commission noted when it adopted the DTV Tuner rules: “DTV receivers [are] a necessary

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<sup>3</sup> See Summary of DTV Applications Filed and DTV Build Out Status, April 7, 2005, available at <http://www.fcc.gov/mb/video/files/dtvsum.html> (last visited April 12, 2005).

<sup>4</sup> *Media Bureau Staff Report Concerning Over-the-Air Broadcast Television Viewers*, MB Docket No. 04-210, at ¶ 21 (rel. Feb. 28, 2005) (“*Media Bureau OTA Report*”) (“[M]illions of new analog-only sets continue to be sold each year. Many consumers are buying these sets unaware that the DTV transition is occurring and that, when the transition is over, analog-only sets will no longer receive OTA signals without the use of external reception equipment.”). The *Media Bureau OTA Report* quotes CEA as reporting the sale of 25.4 million analog-only color TV sets in the U.S. in 2003. *Id.* at ¶ 21 n. 68, citing CEA, *Digital America, Video, Analog Slips*, [http://www.ce.org/publications/books\\_references/digital\\_america/video/analog\\_slips.asp](http://www.ce.org/publications/books_references/digital_america/video/analog_slips.asp) (last visited Jan. 10, 2005).

elements of broadcast television service in the same way that analog TV receivers have been a necessary element of that service.”<sup>5</sup> If DTV-capable sets are readily available, consumers will purchase such sets in the normal course of replacing their existing analog sets. DTV penetration levels will naturally increase and consumer resistance to completing the transition will recede. Also, in addition to the benefits to the DTV transition, the widespread availability of DTV receivers “protect[s] consumers by ensuring that their television sets go on working in the digital world just as they do today.”<sup>6</sup>

In contrast, as the Commission has recognized, the “continued marketing of analog-only sets can only serve to delay the transition further.”<sup>7</sup> Every analog set sold to a consumer willing to purchase a new television set necessarily decreases the likelihood that a given market will soon reach the 85 percent statutory threshold.<sup>8</sup> Such delay, aside from depriving consumers of the benefits of digital technology, will impede the return of analog spectrum allotted for future use by first responders and commercial wireless providers.<sup>9</sup> Delay is even less acceptable today than it was when CEA, CERC, and others urged the Commission and

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<sup>5</sup> *Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, 17 FCC Rcd 15978, 15989 (2002) (“*DTV Tuner Order*”).

<sup>6</sup> *Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion To Digital Television*, 19 FCC Rcd 18279, at ¶ 19 (2004) (“*Second DTV Biennial Review*”).

<sup>7</sup> *DTV Tuner Order*, 17 FCC Rcd. at 15994.

<sup>8</sup> See 47 U.S.C. § 309(j)(14)(B)(iii) (providing that the Commission “shall extend” the Dec. 31, 2006 deadline for analog shutdown in a given market if 15 percent or more of TV households in that market do not have “at least one television receiver capable of receiving the digital television service signals of the television stations licensed in such market” or “at least television receiver of analog television service signals equipped with digital-to-analog converter technology capable of receiving the digital television service signals of the television stations licensed in such market.”)

<sup>9</sup> See *Media Bureau OTA Report* at ¶ 44 (“[T]he 108 MHz of spectrum that will be recovered at the end of the transition will be used to address the critical needs of first responders and other public safety needs, and will bring tremendous benefits to consumers and the U.S. economy.”).

the courts to allow manufacturers to continue to market analog-only sets to consumers indefinitely.<sup>10</sup> Especially in the last year, Congress, the Executive Branch, and the Commission have all made clear that bringing the digital transition to a successful conclusion is of utmost priority and that it should not be obstructed.<sup>11</sup> According to recent press reports, House Commerce Committee Chairman Joe Barton has stated his intention to ask the Commission to *accelerate* the deadline for the final DTV tuner mandate (*i.e.*, the date by which all sets sold that are 13 inches or greater in size must include a DTV tuner) to 2005 or early 2006.<sup>12</sup> Against this backdrop, the Commission should not take any action that could delay consumers' acceptance of DTV technology.<sup>13</sup>

There is no question that digital broadcast reception capability in 25-35 inch televisions is critical to achieving mass market DTV service. The 25-35 inch screen size category is an extremely important market for furthering the DTV transition. CEA has itself

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<sup>10</sup> See, e.g., Comments of the Consumer Electronics Association, MB Docket No. 00-39, at 2 (filed April 6, 2001) ("CEA Comments") ("We urge the Commission to once again reject the false notion that a broad audience for digital television can be promoted by outlawing analog-only televisions sets."); See also *Consumer Electronics Ass'n. v. FCC*, 347 F.3d 291, 293 (2003) ("CEA contends that the FCC lacks statutory authority to enact the *Digital Tuner Order*, and that, even if the FCC has such authority, the *Order* is an arbitrary and capricious abuse of it.").

<sup>11</sup> See, e.g., *Second DTV Biennial Review*, 19 FCC Rcd. 18279 at ¶ 19 ("[W]e have taken a number of important steps to encourage the consumer adoption of digital television"); *DTV Transition Top Priority for NTIA*, TR Daily, April 30, 2004 (quoting John Kneuer, counselor to the acting National Telecommunications and Information Administrator, "the administration is committed to seeing [the digital] transition happen with as little disruption as possible to consumers."); H.R. Rept. 107-481, § 531 (2002) (identifying as a goal "accelerating the digital television transition.").

<sup>12</sup> See, e.g., Terry Lane, *Barton Wants to Move Up DTV Tuner Deadlines*, Comm. Daily, April 13, 2005.

<sup>13</sup> Indeed, granting this delay will no doubt increase the costs to the federal government to complete the digital transition. Every analog-only television receiver sold today increases the number of analog sets that will require a digital-to-analog converter box at the time the transition occurs. To the extent the government intends to subsidize these converter boxes, the cost of that subsidy will continue to escalate for every day that the DTV tuner mandate is delayed.

recognized this importance. For example, in comments to the FCC in 2001, CEA noted that in 1999, of the more than 10,346,000 sets sold with screen sizes larger than 20 inches (not including projection sets), nearly 9,348,000 sets (over 90%) had displays of 25, 26 or 27 inches.<sup>14</sup> On the other hand, projection sets in 1999 represented only 1,230,000 sales to dealers of 1,230,000.<sup>15</sup>

More recent studies underscore the importance of mid-sized sets in the DTV transition. For example, in a 2004 survey by Knowledge Networks/SRI,<sup>16</sup> survey respondents were asked about the screen size of the largest TV set in their homes. The results were as follows:

<u>Set size:</u>	<u>Household penetration:</u>
<25":	23.9%
25-29":	37.3%
30-35":	16.7%
36-40":	8.4%
41-45":	2.6%
46-50":	3.2%
>50":	7.9%

Combining the categories above, in *54 percent* of U.S. homes, the largest TV set present is between 25 to 35 inches in screen size. On the other hand, large screen sets (36 inches and greater) are the largest TV in only 22.1 percent of homes.

Clearly, the digital transition for the television receiver market cannot be considered well on its way until a sizeable number of mid-sized television sets in the marketplace are DTV-capable. And, surely, a DTV tuner requirement aimed at speeding up the

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<sup>14</sup> CEA Comments at 10, n. 15

<sup>15</sup> *Id.* at 5, n. 8.

<sup>16</sup> Knowledge Networks/SRI, Home Technology Monitor, 2004 Ownership Survey (Spring 2004).

transition should apply to this large category *before* 2006, the year by which Congress has sought to have the DTV transition completed.<sup>17</sup>

Yet, by eliminating the 50 percent requirement, the Commission would essentially *guarantee* that DTV sets of the popular 25-35 inch size do not reach consumers between July 2005 and whatever new deadline is set for the 100 percent requirement. That is, for any set not subject to a DTV tuner mandate, consumer electronics manufacturers and retailers will likely make the short-term and flawed economic calculus to produce and sell a slightly less expensive analog set. The Media Bureau's February 2005 report concerning over-the-air viewership confirms this likely result, explaining that up until introduction of the DTV tuner mandate (which to date has applied only to sets 36 inches or greater in size),<sup>18</sup> "most DTV units sold have been video monitors, without any internal DTV reception capability."<sup>19</sup> Absent a mandate, consumers of the 25-35 inch sets will not be "routinely... provided the capabilities needed to receive [DTV] service over-the-air from broadcast television stations."<sup>20</sup>

The CEA-CERC Petition ignores the harms that would result from a dearth of 25-35 inch DTV receivers during the latter half of 2005. Instead, it claims that the 50 percent requirement must become a 0 percent requirement because a phased approach for 25-35 inch sets may generate certain economic inefficiencies.<sup>21</sup> Specifically, CEA-CERC argues that the 50 percent requirement would provide retailers an incentive to "over-order the potentially scarce

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<sup>17</sup> See 47 U.S.C. § 309(j)(14)(B).

<sup>18</sup> See 47 C.F.R. § 15.117(i).

<sup>19</sup> FCC, Media Bureau Staff Report Concerning Over-the-Air Broadcast Television Viewers, MB Docket No. 04-210, 14 (rel. Feb. 28, 2005) ("*FCC OTA Report*").

<sup>20</sup> *DTV Tuner Order*, 17 FCC Rcd at 15994.

<sup>21</sup> *Notice* at ¶ 4.

non-DTV tuner products and to under-order the more expensive products whose prices may be driven down later as a manufacturer seeks to achieve a 50/50 balance.” MSTV and NAB do not disagree that phased implementation of a given size of receiver may be inefficient from an enforcement standpoint.<sup>22</sup> Nevertheless, the number of sets that become available to consumers while the 50 percent requirement is in effect would certainly be greater than if there were *no* mandate during that time. Some is better than none, and CEA-CERC should not be allowed to make the perfect the enemy of the good.

Also, turning the 50 percent requirement into a 0 percent requirement is not the only, or even most logical, option should the Commission conclude that a phased approach to 25-35 inch sets is inefficient. The best solution would be to enact a 100 percent requirement effective July 2005. Such an approach would avoid the inefficiencies of a phased approach, and it would also avoid the public interest harms described above. It is noteworthy that the Commission’s rationale for applying the July 2005 deadline to only 50 percent of 25-35 inch receivers – to allow manufacturers time to “develop efficiencies in production” of such sets and thereby keep prices reasonable<sup>23</sup> – no longer applies. The innovations of some manufacturers have achieved those efficiencies ahead of schedule; thus, it is unlikely that consumers will see an appreciable “spike” in prices of 25-35 inch receivers if manufacturers are required to produce only DTV sets in that category by July 2005. For example, RCA has announced a 27 inch set,

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<sup>22</sup> MSTV and NAB have previously advocated that the Commission adopt a DTV Tuner mandate “in *either* all new television sets of a certain size and larger (with the set size decreasing at each phase) *or* a certain percentage of a manufacturer’s television sets (with percentages increasing at each phase).” See MSTV/NAB/ALTV Comments, MB Docket No. 00-39, at 6-7 (filed April 6, 2001).

<sup>23</sup> *DTV Tuner Order*, 17 FCC Rcd at 15997.

available this summer, that will sell for less than \$300.<sup>24</sup> In short, the economic thesis that underlies the CEA-CERC petition is simply denied by the reality of the new RCA sets.

Moreover, there is every indication that consumers will purchase sets with DTV tuners. In this regard, the foundation of the CEA-CERC Petition – that consumers will prefer the analog-only set or non-DTV tuner digital product over the DTV tuner sets in the 25-35 inch category<sup>25</sup> – is wrong. The claim that consumers will choose a lower priced product that doesn't include a DTV tuner ignores the inherent value of having DTV tuning capability in the TV set.<sup>26</sup> Consumers have an ingrained expectation that TV sets will receive all broadcast signals. Such

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<sup>24</sup> Press Release, RCA, RCA Takes Lead in Delivering Affordable Digital Television with Broad Line-Up of HDTV Produce for 2005 (March 14, 2005), *available at* <http://www.rca.com/content/viewdetail/1,2811,EI700692-CI258,00.html>? (last visited April 16, 2005) (“SDTV models in the 27-inch screen size will be available at suggested retail prices below \$300 while 32-inch models will start at suggested retail prices under \$400.”).

<sup>25</sup> Consumer Electronics Association and Consumer Electronics Retailers Coalition, Petition for Rulemaking, at 4 (filed Nov. 5, 2004) (“CEA-CERC Petition”) (“[C]onsumers typically choose a lower-priced product with otherwise similar features, except for the DTV tuner.”).

<sup>26</sup> Over-the-air viewership is pervasive in the U.S. The Government Accountability Office (GAO) estimates that 21 million households rely *solely* on free, over-the-air television. *Estimated Cost of Supporting Set-Top Boxes to Help Advance the DTV Transition: Testimony Before the Subcommittee on Telecommunications and the Internet, Committee on Energy and Commerce, U.S. House of Representatives*, Statement of Mark L. Goldstein, Director, Physical Infrastructure Issues, GAO, 7-8 (Feb. 17, 2005) (GAO Study). There are an estimated 45 million television sets in these households. *See* Comments of NAB and MSTV, MB Docket No. 04-210, *passim*, Attachment A (2004) (“MSTV/NAB OTA Comments”). Additionally, the GAO has reported that over ten million households that subscribe to cable have *at least* one television that is not connected to cable. GAO Study at 8. A study conducted for the MSTV/NAB OTA Comments determined that such households represent an aggregate of 28 million television sets not connected to cable. MSTV/NAB OTA Comments, Attachment A, at 5-6. These figures reveal an estimated 73 million television sets in the U.S. which are not connected to a pay television service and thus rely solely on the free, over-the-air signals of local broadcasters. There can be no doubt that consumers have come to expect access to free, over-the-air television services, and will continue to do so during and after the digital transition.

expectation was one of the reasons that necessitated imposition of the DTV tuner mandate in the first place.<sup>27</sup>

Importantly, the problem asserted by CEA and CERC as necessitating delay of the 50 percent requirement is not one of manufacturing, *per se*, but is rather a problem of counterproductive assumptions (*i.e.*, the assumption that consumers will prefer the slightly less expensive analog-only sets or non-DTV tuner digital product) made by major retail outlets affiliated with the petitioners.<sup>28</sup> CEA and CERC are thus inappropriately seeking to resolve a retail sales problem by reducing the number of DTV sets that will be manufactured.

In reality, reducing the number of DTV tuner sets in the supply chain will not necessarily prevent retailers from making faulty assumptions about consumers' interest in sets with DTV tuners. Retailers, with support from CEA, have not consistently explained the importance of DTV tuner functionality to their customers. Not surprisingly, consumer confusion has resulted. In most major electronic retail outlets throughout the country, it is next to impossible to find an in-store display of off-air DTV reception and capability. As recently as January, at the 2005 International Consumer Electronics Show in Las Vegas, CEA introduced a

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<sup>27</sup> *DTV Tuner Order*, 17 FCC Rcd. at 15998 (“[T]oday’s decision will ensure a smoother transition by limiting consumer confusion and conforming the emerging DTV marketplace to consumer expectations ... [C]onsumers generally still expect the television they purchase to be able to receive over-the-air broadcast signals.”). *See also Consumer Electronics Ass’n*, 347 F.3d at 302 (“Applying the digital tuner mandate to all televisions not only promotes the DTV transition, but does so in a manner consistent with what the FCC found to be consumer expectations.”).

<sup>28</sup> CEA-CERC Petition at 6 (“A retailer must assume that, whether or not a manufacturer can find a market for its DTV-tuner sets, it will adhere to the 50 percent rule. Hence, the retailer must assume that the supply of lower-priced, non-DTV-tuner sets will be rationed, and that their acquisition prices will therefore be driven up.”).

brochure called “The 3 Simple Steps to HDTV.”<sup>29</sup> Billed on its cover as a brochure that “is designed to make it easy for you to learn the simple steps to get the full high definition experience in your home,” the words “broadcast,” “antenna” or “over-the-air” do not even appear in this brochure, as if terrestrial broadcasting of HDTV programming did not exist.<sup>30</sup> “Step 2” of the brochure, titled “Get the Programming,” brazenly states, “[c]all your local cable or satellite provider to order HDTV programming – the only way to get the full HD movie theater experience in your home.”<sup>31</sup> The answer to the retail outlet problem posed in the CEA-CERC Petition is not to retard the DTV transition for consumers by eliminating deadlines on manufacturing DTV sets, but is rather to educate consumers as to the value of DTV reception capability and make those products universally available. The Commission should not support retailers’ and manufacturers’ disregard of consumers’ interest in over-the-air digital television, which creates an endless cycle of delay in the DTV transition.<sup>32</sup>

Finally, it is worth remembering that the deadline under scrutiny in the instant Petition was established August 8, 2002,<sup>33</sup> over 2 years and 8 months ago. The industry has been

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<sup>29</sup> Consumer Electronics Association, *The Three Simple Steps to HDTV* (2005), available at [http://www.ce.org/shared\\_files/resources/HDTV-Brochure\\_2005final.pdf](http://www.ce.org/shared_files/resources/HDTV-Brochure_2005final.pdf) (last visited April 17, 2005).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> Of course, elimination of the 50 percent requirement would *not* alter the similar schedule governing the deadline by which new DTV “cable-ready” receivers must include DTV tuners. See 47 C.F.R. § 15.123(b)(6) (providing that a unidirectional digital cable television “may not be labeled or marketed as digital cable ready or with [similar] terminology.”). That rule provides that by July 1, 2005, 50 percent of 25-35 inch “cable ready” DTV televisions must have a DTV tuner.

<sup>33</sup> *DTV Tuner Order*, 17 FCC Rcd. 15978.

on notice literally for years that this deadline would go into effect and the time for protest has come and gone.

**II. AT A MINIMUM, THE COMMISSION SHOULD ENSURE THAT 25-35 INCH SETS WITH DTV TUNERS ARE AVAILABLE TO CONSUMERS BY THE 2005 HOLIDAY AND SUPER BOWL SELLING SEASONS.**

While MSTV and NAB maintain that the health of the digital transition would best be advanced by maintaining a DTV tuner mandate for July 2005, the Commission could mitigate the harms likely to result from elimination of that mandate by advancing the 100 percent requirement to late 2005. As the FCC has observed, 40 percent of all TV receivers are sold in the holiday shopping season.<sup>34</sup> CEA has acknowledged the importance of this buying season, noting in 2004 that “[w]ith November 2004 holidays sales of 844,000 units, the 10 percent increase in December sales demonstrates that retailers know that an upgrade to a high-definition television (HDTV) is a priority before this year’s Super Bowl.”<sup>35</sup> CEA’s Chief Executive Officer, Gary Shapiro, added that “it comes as no surprise that a hugely popular event such as the Super Bowl encourages fans... to join hundreds of thousands of other consumers in jumping head-first into digital television.”<sup>36</sup>

Consumers looking to the 2005 holiday and Super Bowl selling season with DTV purchase plans or with analog set replacement intentions would be faced with the same dearth of

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<sup>34</sup> *Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service*, 12 FCC Rcd. 12809, 12841 (1997).

<sup>35</sup> Consumer Electronics Association, Press Room, *Super Bowl XXXIX Boosts Digital Television Sales – Strong December Sales Close Out Record Year* (rel. Jan. 28, 2005), available at [http://www.ce.org/press\\_room/press\\_release\\_detail.asp?id=10681](http://www.ce.org/press_room/press_release_detail.asp?id=10681) (last visited April 12, 2005).

<sup>36</sup> *Id.* The Super Bowl is not the sole reason for increased sales in December and January. In the U.K., 2004 holiday sales came close to doubling DTV penetration in that country. *See Record Holiday Sales Propelled U.K. DTV Homes to the 5-Million Mark*, Comm. Daily, Jan. 21, 2005 (noting that 1.5 million digital terrestrial set-top boxes and integrated DTV receivers were sold in the 3 months preceding December 25, 2004).

mid-sized DTV “televisions” available today and with analog sets that will, in short order, be consigned to the junk heap or need to be outfitted with DTV converters in order to receive broadcasters’ signals. With their purchase of non-DTV tuner sets, these consumers will not count as DTV-enabled for purposes of computing the completion the DTV transition,<sup>37</sup> and they will not likely again purchase a new television in the next year or two, thus further frustrating completion of the transition. Accordingly, the CEA-CERC proposal to advance the 100 percent requirement a mere four months to March 2006 would be of little value. By that point, millions of new analog 25-35 inch sets would have been sold to consumers during the late 2005/early 2006 holiday and Super Bowl season. Accordingly, if the Commission eliminates the 50 percent requirement currently set for July 2005, it should advance the 100 percent requirement to late 2005.

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<sup>37</sup> See 47 U.S.C. § 309(j)(14)(B).

**CONCLUSION**

MSTV and NAB urge the Commission to ensure that consumers have ready and affordable access to 25-35 inch television receivers with DTV tuners in time for the late 2005/early 2006 holiday and Super Bowl selling seasons. Such action will promote consumers' acceptance of DTV technology, which is critical to the success of the digital transition.

Respectfully submitted,

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