

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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

**REPLY COMMENTS OF
TTE CORPORATION**

TTE Corporation (“TTE”) respectfully submits these Reply Comments in the above-captioned proceeding¹ in support of the proposal of the Consumer Electronics Association (“CEA”) and the Consumer Electronics Retailers Coalition (“CERC”) that the Commission accelerate to March 1, 2006 the date by which all 25”-36” televisions must incorporate ATSC tuning/decoding capability, and eliminate the July 1, 2005 date by which 50 percent of such receivers must include this capability.²

The record with respect to requiring integrated DTV tuning/decoding capability is anything but ambiguous: a 100-percent requirement works, and a 50-percent requirement is, at best, flawed, and may actually impede rapid and widescale consumer adoption of integrated DTV receivers. Faced with that consensus, the Commission is left with the question of how to adjust the 100-percent deadline for 25”-36” televisions. Television manufacturers and retailers are in complete accord: if the Commission acts extremely expeditiously, acceleration of the 100-percent

¹ *In the Matter of Requirements for Digital Television Receiving Capability*, Notice of Proposed Rulemaking, ET Docket No. 05-24 (rel. Feb. 14, 2005).

² *See* Petition for Rulemaking filed by the Consumer Electronics Association and the Consumer Electronics Retailers Coalition on November 5, 2004 (“CEA/CERC Petition”).

requirement to March 1, 2006, a full four months ahead of the current implementation schedule and in time to exert a palpable positive effect on first quarter 2006 integrated DTV receiver sales, remains feasible. However, at this late date, retailer ordering practices and manufacturing and supply chain exigencies make any greater acceleration impossible without threatening to throw the 2005 holiday shopping season into a nightmare of television receiver shortages for consumers, hurting the Nation's economy.

I. STATEMENT OF INTEREST IN THIS PROCEEDING

TTE Corporation is a joint venture established last summer between one of Asia's largest television manufacturers, TCL, and Thomson. TTE is a leading global television enterprise, specializing in research and development, manufacturing, and sales of TV products. TTE offers a complete range of television products – from budget to premium, from basic features to high-end innovation. RCA-brand televisions come from TTE Corporation. TTE is focused on ensuring that DTV becomes truly affordable to the average consumer as quickly as possible, having recently announced that it intends to offer this fall a line of standard-definition TVs ("SDTVs") that enable consumers to receive all terrestrial digital broadcasts, including all multicasts, for as little as under \$300 for a 27" receiver.

II. THE RECORD REFLECTS A CONSENSUS THAT THE 50-PERCENT REQUIREMENT IS, AT BEST, FLAWED, AND AT WORST, ANTITHETICAL TO PROMOTING ROBUST CONSUMER ADOPTION OF INTEGRATED DTV RECEIVERS

The record in this proceeding reveals a noteworthy – but by no means surprising – consensus with respect to the failings of the 50-percent of shipments rule. Every single consumer electronics retailer and television manufacturer recognizes the bizarre, if unintended, market effects that the 50-percent requirement approach has fostered – first for 36" and larger televisions and now for 25"-36" televisions – which have resulted not only in a failure to achieve their intended goal of

widescale, rapid consumer adoption of integrated DTV receivers in these product groups, but have actually impeded that goal.³

Equally noteworthy, however, even those parties opposing the proposed rule change, and thus tacitly supporting the 50-percent requirement for 25”-36” televisions, concede that it is a flawed approach – especially in terms of its enforceability⁴ – and muster only the flimsiest, and unpersuasive, argument in its defense, claiming essentially that “it’s better than nothing.”⁵ In fact, as discussed below, given the plethora of evidence in the record that integrated DTV implementation based on a 50-percent requirement serves to *inhibit* consumer adoption of integrated DTV receivers – essentially creating a market environment for dual tuner receivers that is *worse* than would be the case without the requirement – in this instance, “nothing” would actually be better.

Multiple parties in this proceeding – with enormous combined expertise in the manufacturing and marketing of consumer electronics products (TVs in particular) – offer compelling evidence that the 50-percent requirement, however unexpectedly, has distorted the

³ See Comments of Wal-Mart Stores, Inc. in ET Docket No. 05-24 (April 18, 2005) (“Wal-Mart”) at 2; Comments of Circuit City Stores, Inc. in ET Docket No. 05-24 (April 15, 2005) (“Circuit City”) at 2; Comments of Best Buy Co., Inc. in ET Docket No. 05-24 (April 15, 2005) (“Best Buy”) at 2; Comments of RadioShack Corporation in ET Docket No. 05-24 (April 15, 2005) (“RadioShack”) at 2; Comments of Panasonic Corporation of North America in ET Docket No. 05-24 (April 18, 2005) (“Panasonic”) at 2-4; Comments of Philips Electronics North America Corporation in ET Docket No. 05-24 (April 18, 2005) (“Philips”) at 2-5; Comments of Samsung Electronics Corporation in ET Docket No. 05-24 (April 18, 2005) (“Samsung”) at 2-3; Comments of Sanyo Manufacturing Corporation in ET Docket No. 05-24 (April 18, 2005) (“Sanyo”) at 2; Comments of Sanyo Fisher Company in ET Docket No. 05-24 (April 18, 2005) (“Sanyo Fisher”) at 2; Comments of Sharp Electronics Corporation in ET Docket No. 05-24 (April 18, 2005) (“Sharp”) at 2-3; Comments of Sony Electronics Inc. in ET Docket No. 05-24 (April 18, 2005) (“Sony”) at 2. See also, Comments of Harris Corporation in ET Docket No. 05-24 (April 12, 2005) (“Harris”) at 3; Comments of Hewlett-Packard Company in ET Docket No. 05-24 (April 18, 2005) (“HP”); Letter from Scott Blake Harris on behalf of Dell, Inc. to Marlene Dortch in ET Docket No. 05-24 (April 19, 2005) (“Dell”).

⁴ See Joint Comments of MSTV/NAB in ET Docket No. 05-24 (April 18, 2005) (“MSTV/NAB”) at 7; Comments of Motorola in ET Docket No. 05-24 (April 18, 2005) (“Motorola”) at 3.

⁵ See, e.g., MSTV/NAB at 7.

consumer market *vis-à-vis* the sale of NTSC-only versus integrated ATSC televisions.⁶ At the core of these findings is this: anything short of a 100-percent requirement sets up a choice for retailers and consumers that, due to several inescapable facts, cannot help but heavily favor the sale of non-integrated sets.

First, as noted by Panasonic,⁷ Philips,⁸ and Sharp,⁹ the vast majority of U.S. television households have little to no need for an over-the-air DTV tuner because they subscribe to cable or satellite. MSTV/NAB's assertion that consumers recognize "... the inherent value of having DTV tuning capability in the TV set"¹⁰ is, at best, questionable for the consumer that subscribes to pay television services – and has access to far more HDTV content as a result. The "inherent value" of a DTV tuner for that 85 percent of television viewing households is virtually ZERO.

Second, there remains overall a significant price differential between single- and dual-tuner televisions. That differential, as a percentage of the total price of the receiver, is magnified as consumers move to smaller screen sizes, including specifically 27" receivers.¹¹ Indeed, the higher price for integrated DTV capability, coupled with most consumers' lack of reliance on over-the-air reception capability generally, serves as a major disincentive, both for retailers and consumers, to purchase integrated DTV televisions and, conversely, an incentive to purchase single-tuner sets. And while the introduction of more affordable dual-tuner televisions – such as the RCA line of

⁶ See Panasonic at 3; Philips at 5; Sharp at 2-3.

⁷ See Panasonic at 3 ([discussing the effect of the 50-percent requirement on 36" and larger TVs] "consumers, the majority of whom already receive programming delivered by cable or satellite, believed they did not require an over-the-air digital tuner and that the less expensive models, therefore, met their needs.")

⁸ See Philips at 5 ("Most consumers (an estimated 85 percent) do not require the addition of an ATSC tuner to view digital programming because they rely on a cable or DBS provider to deliver their programs.")

⁹ See Sharp at 3 ("Many [consumers] will choose lower-cost, single-tuner sets simply because they receive their programming via a cable or satellite set-top box.")

¹⁰ MSTV/NAB at 8.

standard-definition televisions noted above (as well as, we note, by MSTV/NAB and Motorola¹²) – promises to help narrow the “DTV affordability gap,” price sensitivity remains such that retailer interest in even these dramatically more affordable integrated TVs cannot help but be affected by the 50-percent requirement. As several manufacturers correctly note, manufacturers are powerless to control the ultimate purchasing decision that either their retail or consumer customers make.¹³

Third, and exacerbating this consumer-driven tilt in favor of non-integrated televisions, is the fact that consumers are not being sufficiently educated about the DTV transition or about the “inherent value” of having integrated DTV reception capability. In this area, it is fair to say that the state of consumer education about DTV today requires all stakeholders to increase their efforts to ensure that every American understands both the benefits of digital television and, especially if they rely exclusively on over-the-air signals, the imperative of making the conversion from analog to digital when Congress establishes a hard deadline for the cessation of broadcasting analog signals.

TTE cannot refrain from commenting upon MSTV/NAB’s erroneous and offensive claim that retailers and manufacturers are “disregard[ing] consumers’ interest in over-the-air digital television,”¹⁴ especially in light of the pittance of DTV information that broadcasters are providing to their own viewers. The Commission should ask itself, “when was the last time I saw a DTV public service announcement?” The most effective way to reach consumers about digital *television* is through *television*, yet one is hard-pressed to find *anything* of any substance on broadcast TV that informs consumers about the transition and what it will mean to them. Moreover, where are the newspaper listings of programming on DTV channels? How many television broadcast station

¹¹ See Sharp at 4; Samsung at 2; Philips at 4.

¹² See MSTV/NAB at 7; Motorola at 7, n.10.

¹³ See Sharp at 4; Philips at 2.

¹⁴ MSTV/NAB at 10.

websites offer first-page access to information either about the station's DTV offerings or the DTV transition in general? The unfortunate fact is that if broadcasters are unhappy with consumer education about the DTV transition, they have largely themselves to blame. Let's not forget that broadcasters have asked for this transition to help them to compete head-to-head with other digital programming services; it's time for them to get serious about promoting this transition – especially *on television*.¹⁵

These are the facts of life that have to be faced in today's television marketplace. Given a choice – choice being, ironically, the Achilles Heel of any 50-percent requirement – most consumers will likely opt for the lower-priced, single-tuner television over the more expensive integrated DTV simply because it fits their needs, budget, and interests. Period. By replacing the 50-percent requirement with a 100-percent requirement (that is timed to a date that manufacturers can reasonably meet) the Commission will go far in accelerating consumer adoption of integrated DTV receivers and achieving the goals it set in adopting its digital tuner/decoder mandate.

III. AN ACHIEVABLE ACCELERATION OF THE 100 PERCENT REQUIREMENT – BY MARCH 1, 2006 – IS THE BEST WAY TO DRIVE PURCHASES OF INTEGRATED DTVS

Faced with the consensus that the 50-percent requirement is, at best, unenforceable and, at worst, antithetical to the goal of promoting rapid and widespread adoption of integrated DTV receivers, the Commission is left with the question of how to adjust the 100-percent deadline for 25"-36" televisions. Again, those with any expertise in the manufacturing and marketing of televisions are in complete

¹⁵ Similarly, Motorola's perverse claim that it is the job of manufacturers, to the exclusion of broadcasters, to promote the "benefits a DTV-equipped receiver provides," is akin to saying it is the job of wireless phone manufacturers such as itself, and not wireless service providers, to educate consumers about the benefits of mobile phone service. Motorola at 4.

accord: assuming the Commission acts absolutely as quickly as possible, the July 1, 2006 deadline should be advanced by four months to March 1, 2006, but no sooner.¹⁶

For manufacturers to contract by 4 months their production cycles to enable the deployment of integrated DTV tuning/decoding capability in all sets will take nothing less than a Herculean effort. That effort is aided by the fact that a good amount of work already is underway in anticipation of the Commission's requiring a four-month acceleration.

At this late – and getting later – date, however, it simply would not be possible to shave any additional time off the proposed March 1 deadline, as some have suggested,¹⁷ without risking enormous disruption to the marketplace, including potential product shortages during the crucial holiday shopping season (something that led President Bush in 2003 to take the extraordinary step of invoking the Taft-Hartley Act to force the opening of western ports), or, possibly, manufacturers' abandonment of televisions containing *any* over-the-air tuning capability. The Commission has appropriately and consistently recognized the need for rational, non-disruptive compliance schedules for the implementation of new consumer electronics technologies.¹⁸ The proposed March 1, 2006 deadline is the earliest that can be adopted that is consistent with the rationale of the Commission's prior decisions.

The various counterproposals offered by broadcasters and Motorola to accelerate the 100-percent requirement prior to March 1, 2006 share a common thread: they are utterly heedless of the real world

¹⁶ See Wal-Mart at 2; Circuit City at 2; Best Buy at 2; RadioShack at 2; Panasonic at 5; Samsung at 2; Sanyo at 2; Sanyo Fisher at 2; Philips at 2; Sharp at 3; Sony at 2. See also Harris at 3; HP at 1; and Dell at 1.

¹⁷ See MSTV/NAB at 11; Comments of Pappas Telecasting Companies Inc. in ET Docket No. 05-24 (April 18, 2005) (“Pappas”) at 7; Motorola at 6; Comments of The Walt Disney Company ET Docket No. 05-24 (April 18, 2005) (“Walt Disney”) at 5.

¹⁸ See, e.g., *In the Matter of Technical Requirements to Enable Blocking of Video Programming Based on Program Ratings*, Report and Order in ET Docket No. 97-206, 13 FCC Rcd 11248 (1998) at ¶ 23; *In the Matter of Closed Captioning Requirements for Digital Television Receivers*, Report and Order in ET Docket No. 99-254, 15 FCC Rcd 16788 (2000) at ¶ 56; *In the Matter of Digital Broadcast Content Protection*, Report and Order and Further Notice of Proposed Rulemaking in MB Docket No. 02-230, 18 FCC Rcd 23550 (2003) at ¶ 57.

realities of the retail ordering process and the manufacturing cycle. In their Joint Comments, MSTV and NAB state: “The best solution would be to enact a 100-percent requirement effective July 2005.”¹⁹ Even were the Commission to move with almost unprecedented speed to adopt an Order in this proceeding, it is unlikely that Commission action would occur before July 2005. The broadcasters’ call for instantaneous or possibly retroactive implementation of the 100-percent requirement only underscores the lack of credibility that pervades their Comments.

Perhaps recognizing that a July 2005 date is utterly unrealistic, the broadcasters retreat to a “late 2005” counterproposal.²⁰ As discussed in detail below, this suggested timetable also is unrealistic and fails to recognize the fundamental fact that retail ordering for the 2005 holiday season already is in an advanced stage and manufacturers even now are setting the manufacturing process in motion consistent with orders already placed.

Perhaps the most perplexing of the 100-percent acceleration “counterproposals” is Motorola’s, which proposes that the deadline be advanced by eight months, to November 1, 2005.²¹ Itself a manufacturer that claims to “understand[d] the need for sufficient lead-time in introducing new products and adding new features in products,”²² Motorola claims it cannot fathom there being any “technical or

¹⁹ MSTV/NAB at 7.

²⁰ *See Id.* at 11-12. *See also*, Walt Disney at 5; Pappas at 7.

²¹ *See* Motorola at 2, 7. Motorola’s relaxed approach to the manufacturing cycle in this proceeding stands in marked contrast to the approach it took in the Commission’s proceeding concerning the deadline for the ban on the sale or lease of integrated cable set top boxes. There, it relentlessly argued itself and through NCTA that the Commission had to act immediately because of the 18-month manufacturing cycle. *See* January 14, 2003 *ex parte* letter from Motorola’s Vice President and Director, Broadband Policy in CS Docket No. 97-80 (“Mr. Moloney further informed the Chairman and staff of the lead time required by Motorola to produce new cable set top equipment That lead time has been estimated to be 18 to 24 months.”). *See also*, September 30, 2004 *ex parte* letter from NCTA in CS Docket No. 97-80 at 1 (“In particular, we stressed the need for an expeditious Commission decision since equipment orders need to be placed promptly if CableCARD-enabled set-top boxes must be deployed in July, 2006.”).

²² Motorola at 7.

manufacturing barrier[s]” to meeting this deadline, even while conceding it is so “ambitious” that it would likely require the Commission’s issuance of waivers.

In fact, substantial and unavoidable technical and manufacturing barriers do exist, one of the biggest being the lead time to order and receive necessary parts and components from suppliers. As of today, May 2, 2005, to ensure delivery of product for the 2005 holiday season, manufacturers have decided on their models to be offered, retailers are in the midst of placing orders, and, based upon product placements to date, many manufacturers already are starting to give suppliers projected purchase quantities through the end of the year. By July, 2005, the earliest that the Commission likely will be able to issue an Order in this proceeding, firm retail orders for the 2005 holiday season will have been placed, manufacturers’ orders to component and parts suppliers will have been placed, and products already will be moving through the manufacturing pipeline. While it may be possible to make some adjustments to these projections, any dramatic deviation, which certainly would be the case with an accelerated 100-percent benchmark sooner than March 1, 2006, would require multiple months’ additional advance notice. Simply advancing the 100-percent requirement to late 2005 cannot be done without enormous and unnecessary risk to both consumers’ expectation that the products they demand will be available and the soundness of the 2005 holiday economy.

Finally, contrary to the broadcasters’ arguments, acceleration of the 100-percent requirement to March 1, 2006 will have a positive effect on January and February 2006 sales, including the Super Bowl period, as well as March, including “March Madness.” Retailers likely will decrease their inventories of analog television sets throughout the first quarter of 2006 in anticipation of the 100-percent requirement taking effect on March 1, 2006.

IV. CONCLUSION

The Commission's speedy adoption of an Order eliminating the July 1, 2005 50-percent requirement for digital television receivers 25"-36" and accelerating by four months the 100-percent requirement for those sizes will hasten the completion of the DTV conversion. Any more rapid acceleration of the 100-percent requirement will be virtually impossible to achieve by manufacturers. Consequently, Commission adoption of a 100-percent requirement for screen sizes 25"-36" by March 1, 2006 while eliminating the July 1, 2005 50-percent requirement would serve the public interest.

Respectfully submitted,

TTE CORPORATION.

A handwritten signature in black ink, appearing to read "Greg Bosler", written in a cursive style.

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May 2, 2005