

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

In the Matter of)
)
Annual Assessment of the Status of) MB Docket No. 06-189
Competition in the Market for the)
Delivery of Video Programming)

To: The Commission

**COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (“NAB”)¹ submits these comments in response to the Commission’s *Notice of Inquiry* requesting data and information on the status of competition in the market for the delivery of video programming.² As required by Congress, the Commission again seeks comment through this *Notice* on the current status of the digital television transition and consumer access to broadcast television services, among many other inquiries. As NAB has shown through numerous filings, over-the-air broadcast television signals remain the primary video programming delivery method for millions of American consumers. With the February 2009 digital television (“DTV”) “hard” date rapidly approaching, NAB is ramping up its efforts to educate the public about the transition from analog-to-digital television so that millions of citizens are not left behind. Local television broadcast stations are also

¹ The National Association of Broadcasters is a trade association that advocates on behalf of more than 8,300 free, local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the Courts.

² *Notice of Inquiry* in MB Docket No. 06-189, FCC 06-154 (rel. Oct. 20, 2006) (“*Notice*”)

continuing their efforts to substantially increase the value of digital television, specifically by developing more high-definition (“HD”) and multicast programming.

I. Broadcast Television Is a Vital Player in the Video Delivery Market, Especially for Lower Income and Minority Consumers

The *Notice* (at ¶ 57) sought comment on the number of households relying solely on over-the-air broadcast television for programming, as well as the number of cable and satellite households that rely on over-the-air service on one or more of their television sets not connected to a multichannel video programming distributor (“MVPD”). Nearly 19.6 million households rely solely on over-the-air broadcast television, and there are approximately 45.5 million sets in those homes.³ An additional 23.5 million television sets in 14.7 million MVPD households remain unconnected to the MVPD service. Thus, a total of approximately 69 million television sets are not connected to any MVPD service and receive all broadcast signals over-the-air.⁴ This 2006 data showing large numbers of over-the-air television sets is consistent with two surveys conducted last year.⁵ Clearly, millions of consumers rely, solely or in part, upon free, over-the-air broadcast television reception for their delivery of video programming.

³ See Knowledge Networks/Statistical Research, Inc., *Home Technology Monitor Ownership Survey* (Spring 2006); Nielsen Media Research, *Television Household Estimates* (2005-2006). In these 19.6 million over-the-air households, there are approximately 1.3 million over-the-air digital sets. There are roughly 18.7 million over-the-air households with only analog sets, and these households have about 44.2 million analog sets. See *Notice* at ¶ 59 (inquiring how many households that rely on over-the-air reception are also DTV households).

⁴ See *Home Technology Monitor Ownership Survey* and *Television Household Estimates*, *supra* note 3.

⁵ The Consumers Union and the Consumer Federation of America previously “found that 39 percent of U.S. television-viewing households rely on approximately 80 million television sets to receive some or all of their television programming from over-the-air broadcast signals.” *Estimating Consumer Costs of a Federally Mandated Digital TV Transition: Consumer Survey Results* at 1 (June 29, 2005). Plus, a February 2005 study by the Government Accountability Office (“GAO”) found that 20.8 million households (or 19 percent) rely exclusively on over-the-air transmissions for their television viewing. These over-the-air households have approximately

Those households relying solely on over-the-air broadcasting are predominantly lower income. *See Notice* at ¶ 57 (asking for demographic information on television households). While nationwide approximately 17.8 percent of television households are broadcast-only, approximately 25.6 percent of television households with incomes under \$30,000 annually are broadcast-only. In contrast, only 6.2 percent of the households with annual incomes exceeding \$75,000 depend solely on over-the-air broadcasts to receive video programming. *See Home Technology Monitor Ownership Survey, supra* note 3. Thus, it is clear that the broadcast-only households in the United States include a disproportionate number of viewers who would be least able to afford a subscription television service.

It is also noteworthy that broadcast-only households include relatively greater numbers of racial/ethnic minorities. For example, while less than 15.5 percent of television households with a white head of household nationwide are broadcast-only, approximately 27.5 percent of African-American and 31.8 percent of Hispanic television households rely completely on over-the-air broadcasting. Among households where Spanish is the primary language, 41.5 percent rely solely on free, over-the-air broadcasting. *See Home Technology Monitor Ownership Survey, supra* note 3.

While today there are other sources of news and information, broadcast television stations remain a leading source of vital public safety information and local programming, even for those households that subscribe to an MVPD service. Acting as “life-line providers” in major disasters, over-the-air broadcasters provide a crucial communications link when other services,

44 million sets (2.1 sets per household on average). GAO also found that 16 percent of cable households and about 33 percent of satellite households have at least one television set in the home that is not connected to cable or satellite but receives only over-the-air television signals. GAO, *Digital Broadcast Television Transition: Estimated Cost of Supporting Set-Top Boxes to Help Advance the DTV Transition*, GAO-05-258T at 7-9 (Feb. 17, 2005) (“GAO Report”).

including MVPD services, are unavailable.⁶ In this era of increasing concentration in the cable industry, the broadcast stations carried on cable systems also provide a guaranteed minimum of local and diverse voices for subscribers. As the Commission has explicitly recognized, most programming carried on any cable system is “either originated or selected by the cable system operator, who thereby ultimately controls the content of such programming.”⁷ Thus, the Commission should not discount the important role that broadcasters play in the provision of local, diverse programming (as well as vital emergency information and alerts) to *all* television households, whether or not they subscribe to an MVPD service.⁸

II. The Broadcast Industry Is Leading the Effort to Educate the Public about the DTV Transition and to Provide Quality Diverse Digital Programming

With the DTV transition hard date rapidly approaching, NAB and the broadcast industry are working hard to ensure that the transition to digital is a smooth and orderly process. As shown above, millions of consumers rely on over-the-air broadcast television, and many have yet to purchase a DTV set. NAB is acting to ensure that millions of consumers are not left without access to over-the-air television following the end of the DTV transition in February 2009 by

⁶ See May, Albert L., *First Informers in the Disaster Zone, The Lessons of Katrina* (Washington D.C., The Aspen Institute, 2006), at 13-15, showing how local television broadcasters prepared for disaster and turned to alternative mediums, including the Internet, to broadcast news from their reporters hunkered down in New Orleans during the storm.

⁷ *Report and Order* in MM Docket Nos. 91-221 and 87-8, 14 FCC Rcd 12903, 12953 (1999).

⁸ Congress has expressed similar concerns about cable subscribers retaining access to local diverse information sources. See H.R. Rep. No. 628, 102d Cong., 2d Sess. at 56 (1992) (consumers who “rely on cable television for video services” should “not be deprived of the programs presented by their local television stations,” which include local news and information). In passing the 1992 Cable Television Consumer Protection and Competition Act requiring cable systems to carry local broadcast signals, Congress expressly found that “[b]roadcast television stations continue to be an important source of local news and public affairs programming and other local broadcast services.” 47 U.S.C. § 521(a)(11) note.

helping create a high-quality, low cost digital-to-analog converter box and by educating consumers about the transition.

Last year NAB joined with the Association for Maximum Service Television, Inc. (“MSTV”) to spearhead the development of a prototype digital-to-analog converter box.⁹ In the autumn of 2005, NAB and MSTV awarded contracts to LG Electronics/Zenith and Thomson/RCA. These companies’ completed converter boxes underwent laboratory and real-world testing during 2006. The results of the NAB/MSTV converter box project demonstrate that a high-quality, low-cost converter box can be built and can provide effective reception under a variety of real-world conditions. The performance of the prototype boxes developed by Thomson and LG were quantified in the joint NAB/MSTV/CEA filing in the National Telecommunications and Information Administration’s proceeding on implementing the government’s converter box coupon program.¹⁰ Moreover, this fall NAB, MSTV, CEA and more than a dozen other public interest groups, trade associations and companies endorsed in a letter to NTIA the creation of a “comprehensive, coordinated and harmonized national consumer

⁹ In the summer of 2005, NAB and MSTV announced that they would pursue the development of a prototype high quality, low cost digital-to-analog converter box for terrestrial DTV reception, and issued a Request for Quote to build a prototype Terrestrial Digital Converter Box (“TDCB”), soliciting proposals from the consumer electronics industry. As we reported in our comments in the FCC’s video competition proceeding last year, 12 consumer electronics firms submitted responses to this Request for Quote for the development of a TDCB.

¹⁰ In this joint filing, NAB, MSTV and the Consumer Electronics Association (“CEA”) also recommended minimum performance requirements for digital converter boxes and supported an industry-wide consumer education campaign. *See* NAB/MSTV/CEA Comments to NTIA, *Notice of Proposed Rulemaking*, In the Matter of Implementation and Administration of a Coupon Program for Digital-to-Analog Converter Boxes (Docket 060512129-6129-01) (Filed Sept. 25, 2006).

education effort.” To demonstrate their commitment to this effort, the signatories to this letter attached a set of agreed-upon Principles to Support a Successful DTV Transition.¹¹

With just over 800 days remaining until the DTV hard date, NAB is ramping up its efforts to educate the public about the digital transition and the benefits of DTV. NAB has already conducted initial research to support an aggressive education campaign, and is currently building a coalition of stakeholders who will work with broadcasters to develop a coordinated and effective public education effort. The Board of Directors of NAB recently approved the hiring of a three-person team that will be solely focused on the consumer education aspect of the DTV transition. NAB will announce further details of this education campaign in the near future. Local stations have also been involved in consumer education efforts by donating advertising time and engaging in a variety of promotions to inform their viewers about the transition. NAB expects that local stations will be further involved in the upcoming industry-wide consumer education campaign.

Beyond NAB’s and the industry’s efforts to ensure that consumers continue to have access to broadcast programming, broadcasters across the country are fully engaged in developing HD and multicast programming to better serve their viewers and their communities. For example, the major broadcast networks now provide their most popular programming (including *Gray’s Anatomy*, *American Idol*, *House*, *CSI*, *E.R.*, and *Saturday Night Live*) in HD. Most major sporting events, including the NBA finals, the NFL Superbowl, and the Little League World Series, are also broadcast in HD. Today a total of 1584 stations in 211 television

¹¹ See Letter to John M. R. Kneuer, Acting Assistant Secretary, National Telecommunications and Information Administration, from NAB, MSTV, CEA, *et al.* (sent Sept. 25, 2006) available at <http://www.nab.org/Content/ContentGroups/Legal/Filings/2006/NTIACoalitionLtr92506.pdf>

markets are broadcasting digital signals.¹² About two dozen local stations throughout the country, including WXYZ (Detroit), WTHR (Indianapolis), KTVU (San Francisco), KLAS (Las Vegas), WFTV (Orlando), KPNX (Phoenix) and KARE (Minneapolis), broadcast their local news in HD.

Hundreds of local stations are also using their digital channels for multicast services, and many more are considering multicasting in the future. Decisionmark, a media technology software and information firm, recently estimated that approximately 780 television stations are now offering multicast programming, which represents about a one third increase from a year ago. This multicast programming includes news, weather, sports, religious and ethnic-oriented programs. Even local stations in medium and small markets are providing multicast news, sports and weather services to their local communities.¹³ Broadcasters have also begun to use their digital capacity to bring additional, innovative entertainment programming to consumers. For example, Gray Television uses its digital capabilities to bring the programming of additional networks (including Fox, MyNetwork, and The CW) to a number of small markets.¹⁴ CBS is planning an entertainment multicast channel to provide DVD-like extra features for its leading

¹² See <http://www.nab.org/AM/ASPCode/DTVStations/DTVStations.asp> (last visited Nov. 21, 2006).

¹³ For instance, NBC owned-and-operated stations and affiliates provide local weather reports on their multicast “NBC Weather Plus,” and ABC owned-and-operated stations and affiliates provide local weather reports on their multicast channels, using the “Local AccuWeather Channel.” WRAL-TV in Raleigh operates WRAL-DT, a 24-hour news channel that also runs up to four NCAA basketball games simultaneously during March Madness. For example, in Fresno, CA, station KFSN uses a multicast channel for news, public-affairs shows, and political debates, while WKMG in Orlando broadcasts a Web-style screen with local news, weather maps, headlines and rotating live traffic views. Local stations now air 24-hour multicast channels featuring local news and public affairs, weather, sports and other local programming in markets as small as Boise, ID. See <http://www.ktvb.com/247>.

¹⁴ See Michele Greppi, *Digital a Windfall for Gray Stations*, Television Week at 1 (Nov. 27, 2006).

network shows.¹⁵ In addition, Ion Media Networks has announced plans to start national multicasting channels devoted to children's programming.¹⁶ Just from these limited examples, it is clear that local stations are developing and providing digital programming (both HD and multicast) to growing audiences in television markets throughout the country.

While some multicast channels are carried on MVPD systems, many broadcasters have been frustrated in their efforts to reach MVPD viewers with their multicast programming.¹⁷ The ability to reach the millions of consumers who subscribe to MVPDs with multicast streams is clearly crucial to the economic viability and value of digital television services. NAB again urges the Commission to adopt an anti-stripping policy that prevents cable operators from selectively choosing which content aired by local broadcast stations is carried on MVPD systems.¹⁸ Such a policy would promote the important governmental interest in ensuring a healthy and diverse over-the-air video broadcasting system, and would prevent cable operators from refusing to carry multicast programming that competes with their subscription programming.¹⁹

¹⁵ See "Much Ado About Multicasting," *Multichannel News*, available at <<http://www.multichannel.com/article/CA6290482.html?display=Top+Stories>> (last visited Nov. 29, 2006).

¹⁶ See "Booming Market for Baby Products Reflects Increased Technological Applications, Industry-Wide Consolidations," available at <http://home.businesswire.com/portal/site/google/index.jsp?ndmViewId=news_view&newsId=20061127005623&newsLang=en> (last visited Nov. 29, 2006).

¹⁷ See, e.g., NAB *ex parte* in CS Docket No. 98-120, *Distortions, Myths and Misconceptions: The Cable Industry and the Multicast Debate* at 2-3 (filed June 14, 2006).

¹⁸ See Petition for Reconsideration of the National Association of Broadcasters and the Association for Maximum Service Television, Inc., *Carriage of Digital Television Broadcast Signals*, CS Docket No. 98-120 (filed April 21, 2005).

¹⁹ See *Turner Broadcasting System, Inc. v. FCC*, 520 U.S. 180, 189-90, 201 (1997).

III. Conclusion

Free over-the-air broadcast television continues to play a vital role in the delivery of video programming to millions of consumers. Independent studies show that approximately 69 million televisions sets are not connected to any MVPD system and receive only over-the-air broadcast signals. Millions of households rely solely on free broadcast signals for news, weather, emergency information and entertainment. A disproportionately high number of these include low income and minority households, including nearly 42 percent of all households where Spanish is the primary language.

In conjunction with other industry players, NAB is preparing an aggressive marketing campaign that will help educate American consumers about the February 2009 hard date and the exciting benefits of digital television. This last year has seen unprecedented collaboration between the television and consumer electronics industries. Broadcasters are also continuing the march to digital by rapidly increasing the availability of quality digital programming, including HD and multicast programming. The broadcast community remains fully committed to helping ensure a smooth and orderly transition to an all-digital television environment.

Respectfully submitted,

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