



November 5, 2007

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: Notice of Ex Parte Presentation, MB Docket No. 07-148

Dear Secretary Dortch:

On November 2, 2007, John Lawson, President of the Association of Public Television Stations ("APTS"), Lonna Thompson, APTS Senior Vice President and General Counsel, and Malena Barzilai, APTS Senior Counsel, met with Commissioner Jonathan Adelstein and Rudy Brioché, Commissioner Adelstein's Legal Advisor for Media Issues, to address the above-referenced proceeding.

The APTS representatives discussed Public Television's commitment to education around the digital transition and our concerns about the unique burdens the Commission's proposed mandates would place on noncommercial television stations. Our points are summarized in the attached document, entitled "Public Television's Consumer Education Initiative." In addition, we distributed the attached portions of Senate Bill No. 2125, the Preparing America's Seniors for the Digital Television Transition Act of 2007, addressing PSA and reporting requirements for commercial and noncommercial broadcasters.

Finally, we provided an update on the status of our negotiations with the digital broadcast satellite (DBS) providers for carriage of Public Television's digital signals.

This letter is being provided to your office via ECFS in accordance with Section 1.1206 of the Commission's rules. Please direct any questions regarding this notice to the undersigned.

Sincerely,

/s/
Malena F. Barzilai
Senior Counsel
Association of Public Television Stations
666 Eleventh St, NW, Suite 1100
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cc: Rudy Brioché (via e-mail)

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Public Television's DTV Consumer Education Initiative

- Public Television's consumer education campaign is multifaceted and targeted toward the most difficult to reach over-the-air households. The campaign will feature:
 - DTV Action Spots aired in daytime, primetime and weekend time periods, to produce more than three billion consumer impressions
 - Longer-form on-air programming
 - Information in printed program guides and special mailings, and on pbs.org and station websites
 - Grassroots outreach by local stations in conjunction with community partners

The value of Public Television's airtime and other resources to be used in the consumer outreach campaign exceeds \$50 million.
- Public Television is committed to using on-air Action Spots and longer-form programming to educate consumers, but the Commission's proposed PSA requirement is especially burdensome for Public Television stations. Noncommercial stations devote much less of their broadcast time to non-program material than their commercial counterparts – an average of 3 minutes 12 seconds per hour vs. 15 to 20 minutes per hour for commercial stations. Given these constraints, Public Television stations require flexibility with regard to when and how they present on-air consumer education.
- A mandated on-screen crawl is extremely problematic for several reasons:
 - The process is technologically complicated, and some stations currently lack the capacity to broadcast on-screen crawls. Many stations might have to hire additional personnel to carry out the mandate.
 - Crawls threaten to obscure lower thirds, local station and PBS identification “bugs” and on-screen text and graphics.
 - It would violate the user agreement between stations and PBS to superimpose a crawl for anything other than a local emergency, and to the extent crawls would obscure essential parts of content, they might put stations and distributors such as PBS in violation of their contracts with program producers.
- A reporting requirement would divert Public Television stations' scarce resources away from consumer education and is unnecessary in light of Public Television's deep investment in the success of the transition and stations' demonstrated commitment to education and outreach in their communities.
- The Commission's proposal does not include a process for measuring and tracking consumer awareness of the transition, and fails to target at-risk groups. Public Television stations—by virtue of their unparalleled universal broadcast coverage, ties to local institutions, nonprofit educational mission and history of outreach to at-risk groups—are ideally suited to assist the Commission in its consumer education efforts.

1 pended funds shall be paid back to the original source of
2 such funds, including to the general accounts of the Fed-
3 eral Communications Commission held at the Treasury for
4 any amounts deposited in the fund pursuant to para-
5 graphs (1) or (2) of subsection (f).

6 **“SEC. 343. ADDITIONAL REQUIREMENTS RELATED TO THE**
7 **DTV TRANSITION.**

8 **“(a) REQUIREMENTS ON BROADCASTERS.—**

9 **“(1) PSAS.—**Beginning on the date of enact-
10 ment of this section and ending on March 31, 2009,
11 the Commission shall require each full power com-
12 mercial television broadcast licensee or permittee to
13 broadcast during each day between the hours of 6
14 a.m. and 11 p.m., public service announcements no-
15 tifying the public, in particular older individuals and
16 their families, caregivers, and aging support net-
17 works, of the transition from analog to digital tele-
18 vision that is to occur after February 17, 2009.

19 **“(2) TIME REQUIREMENTS AND TOTAL RUN-**
20 **NING TIME.—**Based on the overall concentration of
21 over-the-air households by State and locality, broad-
22 casters shall air a minimum of 60 seconds of public
23 service announcements per day at variable time slots
24 throughout the week, with half airing between 5
25 p.m. and 11 p.m.

1 “(3) REQUIRED CONTENT.—Any public service
2 announcement broadcast after January 1, 2008,
3 shall include—

4 “(A) information concerning the digital-to-
5 analog converter box program required under
6 section 3005 of the Digital Television Transi-
7 tion and Public Safety Act of 2005 (Public Law
8 109–171; 120 Stat. 23);

9 “(B) such additional consumer information
10 as the Federal interagency taskforce may rec-
11 ommend based on input from the advisory com-
12 mittee established under section 342; and

13 “(C) such additional information as local
14 broadcasters may determine necessary to appro-
15 priately educate their viewers about the transi-
16 tion from analog to digital television.

17 “(4) CONSUMER EDUCATION PLANS.—

18 “(A) IN GENERAL.—Not later than Janu-
19 ary 1, 2008, each full power commercial tele-
20 vision broadcast licensee or permittee shall have
21 in place a comprehensive consumer education
22 plan to inform local viewers about the impend-
23 ing the transition from analog to digital tele-
24 vision based on the overall concentration of
25 over-the-air households by State and locality.

1 “(B) PROGRAMS.—Programs carried out
2 under the plan required by subparagraph (A)
3 may include educational programming, donut
4 spots, crawls, and speaking events.

5 “(5) PERIODIC REPORTS TO THE FCC.—

6 “(A) COMMERCIAL BROADCASTERS.—Not
7 later than 90 days after the date of enactment
8 of this section, and every 90 days thereafter
9 until March 31, 2009, each commercial tele-
10 vision broadcast licensee or permittee shall sub-
11 mit a report to the Commission detailing their
12 efforts to comply with the requirements of this
13 subsection.

14 “(B) NON COMMERCIAL BROADCASTERS.—
15 Not later than June 18, 2008 the Corporation
16 for Public Broadcasting, as defined in section
17 397(2) shall submit a report to the Commission
18 on behalf of television public broadcast sta-
19 tions—

20 “(i) detailing the activities of the pub-
21 lic television industry in educating the pub-
22 lic about the digital transition; and

23 “(ii) including information relating
24 to—

1 “(I) airtime allocated towards
2 consumer education; and

3 “(II) other outreach efforts.

4 “(C) PUBLIC AVAILABILITY.—The Com-
5 mission shall make any report required under
6 subparagraph (A) or (B) available to the public
7 on the Internet, without fee or other access
8 charge, in a searchable and downloadable man-
9 ner.

10 “(b) REQUIREMENTS ON MVPD.—

11 “(1) IN GENERAL.—Each multichannel video
12 programming distributor (as defined in section 602)
13 shall develop a plan to notify subscribers about the
14 transition from analog to digital television that is to
15 occur on February 17, 2009.

16 “(2) REQUIREMENTS OF PLAN.—The plan re-
17 quired under paragraph (1) shall explain—

18 “(A) what the digital transition is;

19 “(B) how the transition will affect sub-
20 scribers of the multichannel video programming
21 distributor; and

22 “(C) such additional information as multi-
23 channel video programming distributors may
24 determine necessary to appropriately educate