

seconds, and contain, at a minimum, the information described in Paragraph (c)(3)(vi) of this section. They must also address the following topics at least once each during every calendar week:

- (i) The steps necessary for an over-the-air viewer or a subscriber to a multichannel video programming distributor to continue viewing the station after the transition;
- (ii) Changes in the geographic area or population served by the station during or after the transition;
- (iii) The channel on which the station can be viewed after the transition;
- (iv) Whether the station will be providing multiple streams of free video programming during or after the transition;
- (v) Whether the station will be providing a High Definition signal during or after the transition;
- (vi) The exact date and time that the station will cease analog broadcasting, if it has not already done so; and
- (vii) The exact date and time that the station will begin digital broadcasting on its post-transition channel, if it has not already done so.

**(d) Consumer Education Campaign Option Two**

- (1) A licensee or permittee must, at a minimum, air an average of sixteen transition-related PSAs per week, and an average of sixteen transition-related crawls, snipes, and/or tickers per week, over a calendar quarter.
- (2) For the purposes of calculating the average number of PSAs aired, a 30-second PSA qualifies as a single PSA, and two 15-second PSAs count as a single PSA.
- (3) PSAs, crawls, snipes, and/or tickers aired between the hours of 1:00 am and 5:00 am do not conform to the requirements of this section and will not count toward calculating the average number of transition-related education pieces aired.
- (4) Over the course of each calendar quarter, 25 percent of all PSAs, and 25 percent of all crawls, snipes, and/or tickers, must air between 6:00 pm and 11:35 pm (Eastern and Pacific time zones) or between 5:00 pm and 10:35 pm (Central and Mountain time zones).
- (5) Stations must also air a 30-minute informational program on the digital television (DTV) transition between 8 am – 11:35 pm on at least one day prior to February 17, 2009.
- (6) Beginning on November 10, 2008, all stations will begin a 100-Day Countdown to the transition. During this period, each station must air at least one of the following per day:

- (i) **Graphic Display.** A graphic super-imposed during programming content that reminds viewers graphically there are “x number of days” until the transition. They will be visually instructed to call a toll-free number and/or visit a Website for details. The length of time will vary from 5 to 15 seconds, at the discretion of the station.
- (ii) **Animated Graphic.** A moving or animated graphic that ends up as a countdown reminder. It would remind viewers that there are “x number of days” until the transition. They will be visually instructed to call a toll-free number and/or visit a Website for details. The length of time will vary from 5 to 15 seconds, at the discretion of the station.
- (iii) **Graphic and Audio Display.** Option #1 or option #2 with an added audio component. The length of time will vary from 5 to 15 seconds, at the discretion of the station.
- (iv) **Longer Form Reminders.** Stations can choose from a variety of longer form options to communicate the countdown message. Examples might include an “Ask the Expert” segment where viewers can call in to a phone bank and ask knowledgeable people their questions about the transition.<sup>2</sup> The length of these segments will vary from 2 minutes to 5 minutes, at the discretion of the station (Some stations may also choose to include during newscasts DTV “experts” who may be asked questions by the anchor or reporter about the impending February 17, 2009 deadline).

**(e) Consumer Education Campaign Option Three**

- (1) Only a licensee or permittee of a noncommercial television station may elect this option. Under this option, from the effective date of these rules, through April 30, 2008, a noncommercial broadcaster must, at a minimum, air 60 seconds per day of transition-related education (PSAs), in variable timeslots, including at least 7.5 minutes per month between 6 pm and 12 am. From May 1, 2008, through October 31, 2008, a broadcaster must, at a minimum, air 120 seconds per day of transition-related education (PSAs), in variable timeslots, including at least 15 minutes per month between 6 pm and 12 am. From November 1, 2008, through March 31, 2009, a broadcaster must, at a minimum, air 180 seconds per day of transition-related education (PSAs), in variable timeslots, including at least 22.5 minutes per month between 6 pm and midnight.
- (2) Noncommercial stations must also air a 30-minute informational program on the digital television (DTV) transition between 8 am – 11:35 pm on at least one day prior to February 17, 2009.

**3. Section 73.3526 is revised to read as follows:**

**§ 73.3526 Local Public Inspection File of Commercial Stations**

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<sup>2</sup> NAB states that “This has been successfully used by medical doctors who are often called on during the flu season, post-traumatic events or other local health related concerns. Adding the “expert” ensures people instinctively know they can rely on the advice and action suggested by the expert.” NAB Ex Parte of February 11, 2008.

(e) *Contents of the file.*

\* \* \* \* \*

**(11)(iv) DTV Transition Education Reports.** For full-power commercial TV broadcast stations, both analog and digital, on a quarterly basis, a completed Form 388, DTV Consumer Education Quarterly Activity Report. The Report for each quarter is to be placed in the public inspection file by the tenth day of the succeeding calendar quarter. By this date, a copy of the Report for each quarter, either paper or electronic, must be filed with the Commission in Docket Number 07-148. If the quarterly report is a paper filing, the cover sheet must clearly state "Report," whereas if the report is filed electronically using the Commission's Electronic Comment File System (ECFS), the "Document Type" on the cover sheet should indicate "REPORT." Stations electing to conform to the requirements of Section 73.674(b) must also provide the form on the station's public website, if such exists. The Report shall be separated from other materials in the public inspection file. The first Report, covering the first quarter of 2008, must be filed no later than April 10, 2008. The Reports must continue to be included up to and including the quarter in which a station concludes its education campaign. These Reports shall be retained in the public inspection file for one year. Licensees and permittees shall publicize in an appropriate manner the existence and location of these Reports.

4. Section 73.3527 is revised to read as follows:

**§ 73.3527 Local Public Inspection File of Noncommercial Educational Stations**

\* \* \* \* \*

(e) *Contents of the file.*

\* \* \* \* \*

**(13) DTV Transition Education Reports.** For full-power noncommercial educational TV broadcast stations, both analog and digital, on a quarterly basis, a completed Form 388, DTV Consumer Education Quarterly Activity Report. The Report for each quarter is to be placed in the public inspection file by the tenth day of the succeeding calendar quarter. By this date, a copy of the Report for each quarter, either paper or electronic, must be filed with the Commission in Docket Number 07-148. If the quarterly report is a paper filing, the cover sheet must clearly state "Report," whereas if the report is filed electronically using the Commission's Electronic Comment File System (ECFS), the "Document Type" on the cover sheet should indicate "REPORT." Stations electing to conform to the requirements of Section 73.674(b) must also provide the form on the station's public website, if such exists. The Report shall be separated from other materials in the public inspection file. The first Report, covering the first quarter of 2008, must be filed no later than April 10, 2008. The Reports must continue to be included up to and including the quarter in which a station concludes its education campaign. These Reports shall be retained in the public inspection file for one year. Licensees and permittees shall publicize in an appropriate manner the existence and location of these Reports.

Part 76 – Multichannel Video and Cable Television Service

1. The authority citation for Part 76 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325,

336, 339, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

**2. Section 76.1630 is added and reads as follows:**

**§ 76.1630 MVPD Digital Television Transition Notices**

**(a) Multichannel video programming distributors (MVPDs) shall provide subscribers with notices about the transition for over-the-air full power broadcasting from analog to digital service (the “DTV Transition”) in the monthly bills or bill notices received by subscribers beginning 30 days after the effective date of these rules and concluding in March, 2009.**

**(b) The notice must be provided as part of an information section on the bill or bill notice itself or on a secondary document mailed with the bill or bill notice, in the same language or languages as the bill or bill notice. These notices must:**

**(1) Be in clear and conspicuous print;**

**(2) Convey at least the following information about the DTV transition:**

**(i) After February 17, 2009, a television receiver with only an analog broadcast tuner will require a converter box to receive over-the-air broadcasts with an antenna because of the Nation’s transition to digital broadcasting. Analog-only TVs should continue to work as before with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products.**

**(ii) Information about the DTV transition is available from [www.DTV.gov](http://www.DTV.gov) or this MVPD at [telephone number and website if available], and from [www.dtv2009.gov](http://www.dtv2009.gov) or 1-888-DTV-2009 for information about subsidized coupons for digital-to-analog converter boxes;**

**(3) and explain clearly what effect, if any, the DTV Transition will have on the subscriber’s access to MVPD service. It must also note that analog sets not connected to an MVPD service may need additional equipment (i.e. converter box) or may have to be replaced.**

**(c) To the extent that a given customer does not receive paper versions of either a bill or a notice of billing, that customer must be provided with equivalent monthly notices in whatever medium they receive information about their monthly bill.**

**APPENDIX C  
DTV Consumer Education Quarterly Activity Report**

**Instructions**

This form should be used to provide the Federal Communications Commission (FCC) with information pertaining to all station activity to educate consumers on the transition to digital television (DTV). All stations should log DTV Transition-Related Public Service Announcements (PSAs) and other DTV activities using the appropriate house (identification) numbers. These logs or records should include the date and time that each DTV activity occurred. This form must be filed in Docket Number 07-148 as Document Type: REPORT, and placed in the station's Public Inspection File. This form must continue to be filed for each quarter in which a station has DTV Transition education obligations.

**Station Call Sign(s)** \_\_\_\_\_

**Report reflects information for quarter ending (mm/dd/yy)**

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**Have you opted to comply with Option One, Two, or Three (once elected, this choice may not change)?**

Option One (A and D)   
  Option Two (B and D)   
  Option Three (C and D)

**Over the past quarter, have you fully complied with the requirements of this option?**

Yes                     
  No

**Simulcasting**

Are you simulcasting on your Analog channel and your primary Digital stream?

Yes                     
  No

If YES, complete only one form for both. If NO, complete a form for your Analog channel and a second for your primary Digital stream.

<b>Call Sign</b>	<b>Channel Numbers</b> Analog _____ Digital _____	<b>Community of License</b>									
		<b>City</b>	<b>State</b>	<b>County</b>	<b>Zip Code</b>						
<b>Licensee</b>											
<b>Above, circle the Channel Number(s) to which this form applies.</b>			<b>Nielsen DMA</b>	<b>World Wide Web Home Page Address</b>							
<b>Facility ID Number</b>	<b>Previous Call Sign (if applicable)</b>	<b>License Renewal Expiration Date (mm/dd/yy)</b>									
		<table border="1"> <tr> <td style="width: 25px; height: 25px;"></td> </tr> </table>									

**Section A (For broadcasters electing Option One)**

Stations that elect Option One must place a copy of this form on the station's public website, if such exists.

On its analog channel, and its primary digital stream, a station must air one transition PSA, and run one transition crawl, in every quarter of every day. This requirement will increase to two PSAs and crawls per quarter per day on April 1, 2008, and to three of each on October 1, 2008. Stations are required to air PSAs or crawls at various times in any given day part, and at least one PSA and one crawl per day must be run during primetime hours. On-air education must not contain inaccurate or misleading statements and must be provided in the same language as a majority of the programming carried by the station. PSAs must be at least 15 seconds, and closed-captioned. Crawls must run during programming for no fewer than 60 consecutive seconds across the bottom or top of the viewing area (See rules for additional details).

Have you aired a sufficient number of eligible PSAs (28, 56, or 84 per week, depending on the reporting period) during the correct quarters of the day?

Yes

No

Have you aired a sufficient number of eligible crawls (28, 56, or 84 per week, depending on the reporting period) during the correct quarters of the day?

Yes

No

**Section B (For broadcasters electing Option Two)**

On its analog channel, and its primary digital stream, a station must run an average of 16 transition-related PSAs and 16 transition-related crawls, snipes, and/or tickers per week in each quarter, all between the hours of 5 a.m. and 1 a.m. . It must also run one 30 minute DTV-related informational program once, and one 100-Day Countdown piece per day for the 100 days prior to the conclusion of the transition. Comment boxes MUST be used to describe these compliant activities (See rules for additional details).

**Total Number of Eligible DTV Transition-Related PSAs and Crawls, Snipes, and/or Ticklers (CSTs) Run -- Last Quarter**

How many DTV PSAs and CSTs did your station run between 5:00 a.m. and 1:00 a.m. last quarter?

Total 5:00 a.m. to 1:00 a.m. PSAs

Total 5:00 a.m. to 1:00 a.m. CSTs

For informational purposes only, how many DTV PSAs and CSTs did your station run in the last quarter from 6:00 a.m. to 9:00 a.m.?

Total 6:00 a.m. to 9:00 a.m. PSAs

Total 6:00 a.m. to 9:00 a.m. CSTs

For stations located in the Eastern or Pacific Time Zone, how many DTV PSAs and CSTs did your station run in the last quarter from 6:00 p.m. to 11:35 p.m. (must average at least 4 per week)?

Total 6:00 p.m. to 11:35 p.m. PSAs

Total 6:00 p.m. to 11:35 p.m. CSTs

For stations located in the Central or Mountain Time Zone, how many DTV PSAs and CSTs did your station run in the last quarter from 5:00 p.m. to 10:35 p.m. (must average at least 4 per week)?

Total 5:00 p.m. to 10:35 p.m. PSAs

Total 5:00 p.m. to 10:35 p.m. CSTs

Comments (add additional sheets where necessary):

**30 Minute Educational Programs – Last Quarter**

How many 30 minute, DTV-related informational programs did your station run during the quarter? At least one such program must be run between the hours of 8:00 a.m. and 11:35 p.m., prior to February 17, 2009.

Total number of 30 Minute Informational Programs

Comments (add additional sheets where necessary):

**100-Day Countdown Eligible Pieces – Last Quarter**

Beginning on November 10, 2008, all stations participating in Option Two will engage in special 100-Day “Countdown to DTV” activities. Stations must execute a minimum of one “Countdown to DTV” on-air activity per day during the 100 days leading up to February 17, 2009. During the last quarter, how many of each eligible 100-Day “Countdown to DTV” pieces did your station run?

- \_\_\_\_\_ *Graphic Displays*
- \_\_\_\_\_ *Animated Graphics*
- \_\_\_\_\_ *Graphic and Audio Displays*
- \_\_\_\_\_ *Longer Form Reminders*

Comments (add additional sheets where necessary):

**Section C (For Noncommercial broadcasters only)**

On its analog channel, and its primary digital stream, a station must air 60 seconds per day of on-air consumer education, in variable timeslots, including at least 7.5 minutes per month between 6 pm and 12 am. Beginning May 1, 2008, this requirement doubles, and beginning November 1, 2008, it increases again, to 180 seconds per day and 22.5 minutes per month between 6 pm and midnight. It must also run one 30 minute transition education piece once (See rules for additional details).

Have you aired a sufficient amount of consumer education (60, 120, or 180 seconds per day, depending on the date) during each day this quarter?

Yes

No

Have you aired a sufficient amount of consumer education number of eligible crawls (7.5, 15, or 22.5 minutes per month, depending on the date) between 6:00 p.m. and 12:00 a.m. this quarter?

Yes

No

**30 Minute Educational Programs – Last Quarter**

How many 30 minute, DTV-related informational programs did your station run during the quarter? The comment box may be used to describe this activity. At least one such program must be run between the hours of 8:00 a.m. and 11:35 p.m., prior to February 17, 2009.

Total number of 30 Minute Informational Programs

Comments (add additional sheets where necessary):

**Section D (For all broadcasters)**

**Additional DTV On-air Initiatives – Last Quarter**

Did your station run additional on-air initiatives (such as news reports, town hall meetings, etc.) during the quarter? The comment box may be used to describe these initiatives.

Yes     No

Comments(add additional sheets where necessary):

**Station Web Site Additional Activity Related to the DTV Transition – Last Quarter**

Does your station have a Web site?     Yes     No

If YES, did your station provide additional DTV related information or activities on that Web site? The comment box may be used to describe what was posted on the station’s Web site.

Yes     No

Comments(add additional sheets where necessary):

**Additional DTV Outreach Efforts – Last Quarter**

Check all of the DTV related activities listed below that your station engaged in over the last quarter. The comment box may be used to describe this activity.

Speaking Engagements

Comments(add additional sheets where necessary):

Community Events

Comments(add additional sheets where necessary):

Other (describe)

Comments(add additional sheets where necessary):

**This comment box may be used to include other comments or information about your station’s DTV activity over the last quarter.**

Comments(add additional sheets where necessary):

**STATION CERTIFICATION**

**I certify that the statements in this document are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.**

Name of Licensee (print):

Signature:

Date:

**APPENDIX D**

**Letter from the Honorable John D. Dingell, Chairman of the Committee on Energy and Commerce, and the Honorable Edward J. Markey, Chairman of the Subcommittee on Telecommunications and the Internet, U.S. House of Representatives, to the Honorable Kevin J. Martin, Chairman, the Honorable Michael J. Copps, Commissioner, the Honorable Jonathan S. Adelstein, Commissioner, the Honorable Deborah Taylor Tate, Commissioner, and the Honorable Robert M. McDowell, Commissioner, Federal Communications Commission. (attached)**

HENRY A. WAXMAN, CALIFORNIA  
EDWARD J. MARKEY, MASSACHUSETTS  
RICK BOUCHER, VIRGINIA  
EDOLPHUS TOWNS, NEW YORK  
FRANK PALLONE, JR., NEW JERSEY  
BART GORDON, TENNESSEE  
BOBBY L. RUSH, ILLINOIS  
ANNA G. ESHOO, CALIFORNIA  
BART STUPAK, MICHIGAN  
ELIOT L. ENGEL, NEW YORK  
ALBERT R. WYNN, MARYLAND  
GENE GREEN, TEXAS  
DIANA DEGETTE, COLORADO  
VICE CHAIRMAN  
LOIS CAPPS, CALIFORNIA  
MIKE DOYLE, PENNSYLVANIA  
JANE HARMAN, CALIFORNIA  
TOM ALLEN, MAINE  
JAN SCHAKOWSKY, ILLINOIS  
HILDA L. SOLIS, CALIFORNIA  
CHARLES A. GONZALEZ, TEXAS  
JAY INSLEE, WASHINGTON  
TAMMY BALDWIN, WISCONSIN  
MIKE ROSS, ARKANSAS  
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ANTHONY D. WEINER, NEW YORK  
JIM MATHESON, UTAH  
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CHARLIE MELANCON, LOUISIANA  
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GREGG A. ROTHSCCHILD, CHIEF COUNSEL

ONE HUNDRED TENTH CONGRESS

**U.S. House of Representatives**  
**Committee on Energy and Commerce**  
**Washington, DC 20515-6115**

JOHN D. DINGELL, MICHIGAN  
CHAIRMAN

May 24, 2007

JOE BARTON, TEXAS  
RANKING MEMBER  
RALPH M. HALL, TEXAS  
J. DENNIS HASTERT, ILLINOIS  
FRED UPTON, MICHIGAN  
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MARSHA BLACKBURN, TENNESSEE

The Honorable Kevin J. Martin, Chairman  
The Honorable Michael J. Copps, Commissioner  
The Honorable Jonathan S. Adelstein, Commissioner  
The Honorable Deborah Taylor Tate, Commissioner  
The Honorable Robert M. McDowell, Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Dear Chairman Martin and Commissioners Copps, Adelstein, Tate, and McDowell:

With the February 17, 2009, deadline for the digital television transition drawing near, representatives from industry, public interest groups, and the Federal Government must work together to ensure that millions of American television sets do not go dark. The Committee on Energy and Commerce has long known the benefits of transitioning to digital television, but now it is time to get the job done, and done correctly. If implemented successfully, the transition from broadcast television to digital service will free up valuable spectrum to enhance public safety communications. It may also bring consumers an array of new, digital broadcast video services, and it will reclaim spectrum that, if allocated wisely, will enhance wireless competition and spur new wireless broadband deployment and innovation.

A critical component for achieving a successful digital television transition is consumer education. Recognizing that the government mandated the transition to digital broadcasting, it is the Government's responsibility to take the lead in ensuring that consumers across the country are aware of the transition and its implications.

We are concerned about a number of matters associated with the digital transition.

First, the present lack of leadership, direction, and focus at the Federal level is jeopardizing the transition.

The Committee notes that the Commission recently adopted rules requiring consumer electronics retailers to inform consumers of television equipment being sold with analog-only tuners by displaying a government-mandated "consumer alert" near the device. Beyond this relatively small step, however, we have yet to see emerge from the Commission any articulation

or movement toward a comprehensive consumer education program, with a unified message, a clear chain of command, concrete and measurable goals, and mechanisms for oversight and accountability. We are concerned that to date, the Commission's efforts have been limited to the creation of an Internet web site and passive participation in industry coalition meetings.

This concern was highlighted in Chairman Martin's recent written testimony before the Subcommittee on Telecommunications and the Internet when the Chairman failed to mention the digital television transition at all. In the Commission's recent appropriations request to Congress, the Commission asked for a mere \$1.5 million to inform 300 million American consumers about the digital television transition. In contrast, Berlin, Germany, spent approximately \$984,000 to educate a population of 3.4 million about a similar transition. The Commission provided no explanation for how these funds would be spent, nor did the Commission describe any other efforts that it intends to undertake which do not require additional funding. Moreover, Chairman Martin recently stated that he believed the National Telecommunications and Information Administration (NTIA), rather than the Commission, has primary responsibility for consumer education regarding the digital television transition.

We are concerned that the apparent lack of direction and focus will lead to needless confusion, leaving millions of Americans overly reliant on the good graces of industry to inform them of the steps they need to take to ensure their continuing access to free, over-the-air local television after February 17, 2009.

Second, the Commission is the lead agency for digital transition and consumer education, and as such, has important responsibilities.

While NTIA must play a central role in educating consumers about the converter box coupon program, there are many facets of the digital television transition about which consumers must be informed, over and above the availability of converter box coupons. It is the Commission that has primary responsibility among Federal agencies for the overall digital television transition—to lead in consumer education about the transition. This is particularly the case because the Commission has regulatory power over industries, which the Commission can use to develop and manage the educational campaign that is sorely needed.

Thus, with less than eight months remaining before the converter box coupons become available and less than two years before the analog cutoff deadline, we are troubled that the vast majority of the public is still unaware that their analog television sets are in jeopardy of going dark, yet the Commission appears to be counting on others to lead consumer education efforts. While we applaud the commitments of organizations such as the National Association of Broadcasters, the National Cable and Telecommunications Association, the Consumer Electronics Association, the Consumer Electronics Retailers Association, the Association of Public Television Stations, and the Leadership Conference on Civil Rights to develop a coordinated consumer education campaign, we recognize that ultimately these are, for the most part, trade associations that cannot compel their members to undertake consumer education efforts; any efforts remain purely voluntary.

Third, the Commission must immediately implement a national consumer education campaign.

The time has come for the Commission to assume responsibility for developing, implementing, and overseeing a public outreach and consumer education campaign about the digital television transition. In addition to its regulatory authorities, the Commission is particularly well suited to lead this effort given its existing expertise and resources. Indeed, the Commission already has an entire bureau dedicated to consumer education and outreach, it chairs or participates in numerous advisory committees and related intergovernmental task forces, it holds field hearings across the country, and it has extensive experience overseeing efforts to facilitate transitions through technological change.

A prime example of such an effort was the Commission's successful campaign to help the telecommunications industry overcome the "Y2K" problem. The Commission initiated this campaign, which also faced a hard deadline, about two years before that deadline. The Commission assigned a Commissioner to lead this effort. In addition, the Commission developed a campaign that included advocacy and outreach—including letters, media relations, and a speaker's bureau—along with monitoring and assessment through mandatory and voluntary industry surveys, participation in industry forums, and information sharing. Similar efforts should be undertaken for the digital television transition.

#### *Utilization of Existing Commission Authority*

There are a number of steps within the Commission's current authority, which the Commission is at liberty to take, post-haste. The coordinated efforts of individual Commissioners could achieve maximum public awareness through the full range of communications activities across various geographic regions of the country.

Given that the Commission has requested very little funding for its own consumer education efforts, the Commission could use its existing authority to compel industry to contribute time and resources to a coordinated, national consumer education campaign. Among the initiatives the Commission could undertake using its existing authority are: (1) to require, as a license condition or through customer service or other consumer protection or public interest requirements, all multichannel video programming distributors (MVPDs) to insert periodic notices in customer bills that inform consumers about the digital television transition and their customers' future viewing options, with civil penalties for noncompliance; (2) to require broadcast licensees and permittees to report, every 90 days, their consumer education efforts, including the time, frequency, and content of public service announcements aired by each station in a market, with civil penalties for noncompliance; (3) to require manufacturers to include information with television receivers and related devices about the transition, with civil penalties for noncompliance; (4) to work with NTIA to require retailers who participate in the converter box coupon program to detail their employee training and consumer information plans and have Commission staff conduct spot inspections to ascertain whether such objectives are being met at

stores; and (5) to establish an advisory committee or other digital television working group to consult with State and local governments, low-income assistance program providers, educational institutions, community groups, public interest groups and other interested parties, to provide ongoing advice to the Commission about its public outreach efforts and to develop progress reports on private sector consumer education efforts.

The Commission also should consider using its regulatory authority to require television broadcasters to air periodic public service announcements and a rolling scroll about the digital transition, as the Government Accountability Office (GAO) found a similar effort was a critical component of Berlin, Germany's successful digital transition. In addition, the Commission could impose interim requirements for detailing a broadcaster's consumer education efforts in the required local public inspection file, such as by including coverage about the digital transition in the issues/program list compiled every three months or by making announcements in local newspapers or on-air similar to public notice requirements for new stations or license renewal.

Moreover, given that GAO identified low-income populations as particularly affected by the transition yet difficult to reach, the Commission could require, as an interim measure, that telecommunications carriers that receive funds under the Low Income Federal universal service program to notify each of their low income customers of the digital transition and include such a notice in their required Lifeline and Link-Up publicity efforts. In addition, given the significant stake of 700 MHz auction winners in a successful transition, the Commission could require those entities to report their specific consumer outreach efforts.

We view these initiatives as the floor, not the ceiling, of any consumer education campaign, so we encourage the Commission to think creatively about other mechanisms within its existing authority to educate consumers.

#### ***Utilization of Commission Resources***

We specifically urge Chairman Martin to direct the use of Commission resources creatively and expansively in support of a national consumer education and outreach campaign. For example, the Commission could: (1) conduct periodic consumer outreach programs and distribute coupon applications through its regional field offices; (2) ensure that its Public Safety and Homeland Security Bureau involves local emergency responders and public safety entities in consumer outreach and coupon distribution; (3) utilize its Office of Communications Business Opportunities to conduct outreach to small, minority-owned and female-owned businesses; (4) conduct targeted outreach through its Disability Rights Office; (5) develop and implement an outreach component to each of the Commission's advisory committees, including the Consumer, Federal Diversity, and Intergovernmental Advisory Committees; (6) implement working groups with State commissions, Tribes and other Federal agencies to develop consumer outreach plans; (7) assure that its Office of Legislative Affairs reaches out to every Member of Congress to assist in publicizing the transition and responding to constituent concerns; (8) enable consumers to obtain the converter box coupon application form through the Commission's Web site and include that link in all Commission digital television transition materials; (9) post on the

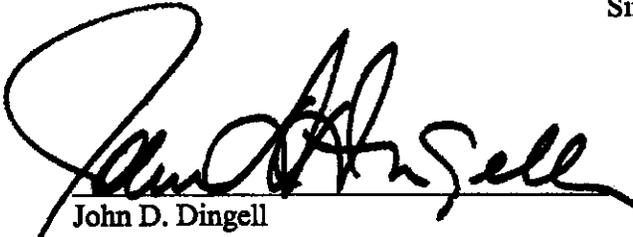
Commission's Web site a list of retail locations through which consumers can redeem converter box coupons; (10) require partners identified on the Commission's digital television Web site to report their specific consumer outreach efforts; and (11) periodically survey consumer awareness and satisfaction with the transition and the steps consumers must take to prepare for the cutoff.

***Submission of Commission's Digital Transition and Consumer Education Plan***

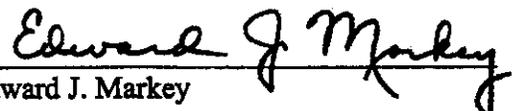
We are eager to see the Commission step up its overall efforts to ensure a successful transition. We, therefore, request Chairman Martin to provide us by Monday June 11, 2007, (1) the Commission's public outreach program for the digital television transition; (2) the date upon which it will begin implementation; and (3) a detailed description of the Commission's efforts to oversee the consumer education efforts of industry. We also request from Chairman Martin a comprehensive and detailed description of how the Commission will expend its requested \$1.5 million line-item on consumer education efforts and we ask the Chairman to specify the Commission's plan to keep Congress regularly informed of the progress of the digital television transition, including the status of international coordination, broadcaster channel relocation, the Commission's public outreach program, and industry consumer education efforts.

Thank you for your attention to this matter. If you have any questions, please contact us, or have your staff contact Johanna Shelton, Colin Crowell, or Maureen Flood with the Committee staff at (202) 226-2424.

Sincerely,



John D. Dingell  
Chairman



Edward J. Markey  
Chairman  
Subcommittee on Telecommunications  
and the Internet

cc: The Honorable Joe Barton, Ranking Member  
Committee on Energy and Commerce

The Honorable Fred Upton, Ranking Member  
Subcommittee on Telecommunications and the Internet

**APPENDIX E**

**Reply from the Honorable Kevin J. Martin, Chairman, Federal Communications Commission, to the Honorable John D. Dingell, Chairman of the Committee on Energy and Commerce, and the Honorable Edward J. Markey, Chairman of the Subcommittee on Telecommunications and the Internet, U.S. House of Representatives. (attached)**



OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

June 18, 2007

Honorable John Dingell, Chairman  
Committee on Energy and Commerce  
US House of Representatives  
2125 Rayburn HOB  
Washington, DC 20515

Honorable Ed Markey, Chairman  
Subcommittee on Telecommunications  
and the Internet  
Committee on Energy and Commerce  
US House of Representatives  
316 Ford HOB  
Washington, DC 20515

Dear Chairman Dingell and Chairman Markey:

Thank you for your letter concerning the digital transition that will take place on February 17, 2009. I share your concern that we must do all we can to minimize the potential burden the digital transition could impose on consumers and maximize their opportunities to benefit from it. I also share your belief that a critical component of a smooth digital transition is consumer education. Please be assured that the Commission is doing everything within its statutory and budgetary capacity to make sure that no American is left behind in this part of the digital revolution.

A successful completion of the digital transition depends upon ensuring that appropriate policies are in place to minimize the burden and the cost born by consumers as well as upon government and industry working together in promoting consumer awareness. For some time now, we have been working both on our own and in cooperation with industry, other government agencies, and consumer groups to advance the transition and promote consumer awareness. Our efforts to date have been three-fold. First, we have devoted significant resources to getting the right rules in place to facilitate a smooth transition and minimize the burden on consumers. Second, we have been vigorously enforcing our digital transition-related rules to ensure that these rules are being adhered to and consumers are protected. And third, we have been promoting consumer awareness of the upcoming transition through our education and outreach efforts. These efforts include focusing on groups that may not otherwise learn about the transition including senior

citizens, non-English speaking consumers, minority communities, people with disabilities, low-income individuals, and people living in rural and tribal areas.

In your letter, you reference my testimony before the House Appropriations Subcommittee where I stated that that National Telecommunications and Information Administration (NTIA) “was given primary responsibility for educating consumers about the upcoming transition.” Hearing of the Subcommittee on Telecommunications and the Internet of the House Energy and Commerce Committee; Subject: Oversight of the Federal Communications Commission, March 14, 2007 at 83. I was, of course, referring to the Deficit Reduction Act of 2005, where Congress established a hard deadline of February 17, 2009 for completing the DTV transition. In that legislation, Congress specifically allotted NTIA one hundred million dollars (\$100,000,000) to spend on administrative expenses for the digital transition and the converter box program, including five million dollars (\$5,000,000) “for *consumer education concerning the digital television transition* and the availability of the digital to analog converter box program.” Deficit Reduction Act of 2005, Public Law 109-171, Sec. 3005(c)(2)(A), Feb. 8, 2006 (emphasis added). In addition, Congress anticipated that the administrative expenses might be even greater than \$100 million and therefore gave NTIA the ability to spend an extra \$60 million on such expenses. Thus, Congress explicitly gave NTIA the responsibility for both the coupon box program as well as consumer education about the digital transition generally. I respect Congress’s decision in this matter.

Moreover, the Commission has requested money for digital transition consumer education and outreach two years in a row (*See Tab 1*). At nearly the same time that this legislation was being passed, the Commission requested \$500,000 for purposes of consumer education but has received no money for this purpose. Instead, as noted above, Congress provided to NTIA \$5 million for their program of “consumer education concerning the digital television transition.” Again, I respect Congress’s determination that NTIA should be the agency provided with the primary financial resources, and thus be the primary lead, for the consumer education efforts. Although, Congress has not yet acted upon it, we have requested \$1.5 million for consumer education for Fiscal Year 2008 and look forward to working with you in our consumer education efforts. To the extent that Congress wishes to provide us with funds exceeding the \$1.5 million we have requested for consumer education efforts, we would welcome such an increase.

Moreover, I believe that the Commission should do everything within its current statutory and budgetary capacity to facilitate the digital transition and promote consumer awareness. One of the Commission’s important responsibilities as the digital transition draws near is to make sure that consumers are aware of its approach and the steps they must take to ensure they do not lose their television service. You have provided us a number of extremely helpful suggestions in this regard and, as described below, we are endeavoring to implement all of them. As I outline below, the Commission has also been active on several consumer education fronts in an effort that has involved numerous offices and Bureaus throughout the Commission.

### ***Policy Proceedings and Minimizing the Burden on Consumers***

Without the proper policies in place some viewers may be left in the dark or be unable to realize the full opportunities offered by digital technology. The Commission has initiated numerous policy proceedings to facilitate the nation's transition from analog to digital television (DTV) and to promote consumer awareness of the transition. At the same time, we are in the process of making any necessary adjustments to our technical rules and policies to facilitate the transmission of digital broadcast signals by February 2009.

*Viewability NPRM.* In this item, the Commission proposes to ensure that cable subscribers will not lose access to broadcast signals because of the digital transition. A lot of attention has appropriately been placed on the estimated 15 percent of Americans that do not subscribe to a multichannel video programming service, such as cable. The federal government has proposed an ambitious and important program to ensure that they are not left behind after the transition. It is equally important, however, to remember that about 50 percent of cable subscribers today – at least 32 million people – subscribe to analog, not digital cable. These consumers are also at risk of losing their broadcast signals after the digital transition unless the Commission acts. The Commission has a statutory responsibility to ensure that these customers are also able to watch broadcast television after the transition.

The 1992 Cable Act is very clear. Cable operators must ensure that all local broadcast stations carried pursuant to this Act are “viewable” by *all* cable subscribers. This NPRM proposes that cable operators be explicitly required to continue to carry these broadcast signals in analog format to the millions of analog cable customers. Alternatively, for cable operators who have chosen to go all digital, the item proposes that cable operators provide their subscribers with the necessary equipment to view the broadcast and other channels.

Importantly, I do not believe that every consumer should be forced to rent a set-top box to access broadcast television. Many consumers do not want the expense or hassle of having to get a set-top box. Instead, the cable operator should ensure that all of its customers have access to the broadcast signals, including those customers that do not want to rent a digital box. Commission action is needed to ensure that cable subscribers will not be forced to rent a set top box to view the broadcast signals.

One of the most exciting features of digital technology is the advent of HDTV. Broadcasters are providing all sorts of sports, news and entertainment content in this format and increasing numbers of consumers are purchasing televisions to watch this programming. Consumers with these sets should be able to fully experience this enhanced viewing opportunity. If consumers buy a new expensive HDTV, they reasonably expect to get high-definition signals. In this item, the Commission also

reaffirms that broadcast signals delivered in HDTV must be able to be seen in HDTV by cable subscribers with a high-definition set.

*Labeling Item.* In November 2005 the Commission mandated that, as of March 1, 2007, all television receivers manufactured or shipped in interstate commerce or imported into the United States must have an integrated digital tuner. Despite this prohibition on manufacture and shipment, retailers may continue to sell analog-only devices from existing inventory. However, at the point of sale, many consumers were not aware that analog-only TVs would not be able to receive over-the-air-television signals without the use of a digital-to-analog converter box after February 17, 2009. Recognizing that an important aspect of preparing for the DTV transition is ensuring that consumers are informed about the transition and able to obtain the television receiver equipment necessary to view over-the-air signals when analog broadcasting ceases, the Commission released a *Second Report and Order* in the Second DTV Periodic Review that requires retailers to fully inform consumers about the DTV transition date at the point of sale. Specifically, the Commission requires sellers of television receiving equipment that does not include a digital tuner to disclose at the point-of-sale that such devices include only an analog tuner and therefore will require a converter box to receive over-the-air broadcast television after the transition date.

*Third Periodic NPRM.* The Commission released a *NPRM* initiating the Commission's third periodic review of the nation's transition to DTV. This Third DTV Periodic Review provides a progress report on the DTV transition and considers the procedures and rule changes necessary to complete the transition. In particular, in view of the statutory change from a market-by-market transition to a hard deadline the Commission's focus has moved, from simply ensuring that stations are operating in digital, to ensuring that broadcasters complete construction of their final, post-transition (digital) facilities by the statutory deadline which will minimize any consumer disruption. Notably, as of June 12, 2007, approximately 93.5 percent of full-power television broadcast stations were broadcasting a digital signal.

*Other Proceedings.* The Commission's next objective is to adopt the final DTV Table of Allotments, which will provide all eligible stations with channels for DTV operations after the DTV transition. We are also working on an item that would establish a framework for satellite carriage of the signals of digital-only stations prior to completion of the digital transition and would invite comment on issues related to satellite carriage of television stations' digital broadcast signals post-transition. We hope to issue these orders before the end of the summer. In addition, last year I circulated to the other Commissioners a multicast item. Mandatory carriage of multicast signals will advance the digital transition by facilitating the ability of broadcasters to provide more programming choices, thus making it a smoother process for consumers. This item is currently still pending before my colleagues.

### *Enforcement Activities*

The Commission's DTV-related enforcement efforts are focused on protecting consumers from the unknowing purchase of television equipment without integrated digital tuners. Enforcement actions are centered on two key rule requirements: (1) the labeling requirement for equipment with analog-only tuners; and, (2) the prohibition on the importation and shipment of television receivers without integrated digital tuners.

*Labeling Requirement.* The Commission's labeling rule, as referenced above, requires retailers of television receiving equipment without a digital tuner to disclose at the point-of-sale that such devices include only an analog tuner and therefore will require a converter box to receive over-the-air broadcast television after the transition date. Immediately after this rule became effective on May 25, 2007, Commission investigators began visiting store locations across the country and reviewing retailer Websites and catalogs. As of June 15, 2007, Commission staff had inspected nearly 600 stores and Websites and issued over 250 citations notifying retailers of the violation and warning of possible enforcement action for future violations. Additional violations could result in further enforcement action, including monetary forfeitures. We note that in response to these citations, several major retailers have altered their processes and are now appropriately alerting consumers about the television equipment.

*DTV Tuner Requirement.* The DTV tuner requirement took effect according to a phase-in schedule that applied the requirement first to receivers with the largest screens and then to progressively smaller screen receivers and other television receiving devices that do not include a viewing screen, *i.e.*, VCRs and DVD players, to minimize the impact of the requirement on both manufacturers and consumers. Thus, responsible parties were prohibited from importing or shipping television receivers without DTV tuners pursuant to the following schedule: (1) receivers with screen sizes 36" or more – effective July 1, 2005; (2) receivers with screen sizes between 25" and 25" – effective March 1, 2006; and (3) all other television receivers and other video devices capable of receiving television signals – effective March 1, 2007. Notwithstanding these requirements, however, some companies continue to import and ship analog-only television receivers and equipment after the deadlines.

Acting on complaints and its own review of U.S. Customs data, the Commission is tracking down these companies. For example, on May 30, 2007, the Commission issued Notices of Apparent Liability against two companies – Syntax Brillian Corp. (approx. \$2.9 million) and Regent USA, Inc. (\$63,650) (*See Tab 2*). We anticipate taking additional enforcement actions against other companies for similar violations over the next few months.

### *Consumer Education and Outreach*

The Commission's current DTV consumer education and outreach initiative has focused on "no cost" and "low cost" activities due to the budget constraints I mentioned to above. As discussed in greater detail below, we continually develop and update DTV informational materials and distribute these materials to consumers and the media, we

routinely participate in a host of consumer and industry events, and we disseminate information to consumers using the Internet, including our specially-created Internet Website, [www.dtv.gov](http://www.dtv.gov) (*See Tab 3*). As funding is made available, we will accelerate our efforts as the deadline approaches.

*Advisories, Publications, and News Media.* We have prepared and disseminated consumer publications including consumer brochures and tip sheets, designed to alert, inform, and educate consumers about the transition. For example, last week, we issued a consumer advisory on what consumers should know about buying TVs as the analog cutoff date approaches (*See Tab 4*). This advisory, which is posted prominently on our Webpage, offers easily understandable information on what the digital transition is, any purchasing decisions consumers will have to make in anticipation of the transition, and the converter box program. It cautions consumers about purchasing analog TV sets that will not work without converter boxes to receive over-the-air broadcasts after February 17, 2009.

We also issued a consumer advisory on closed captioning for digital television which will help inform and advise people who are deaf and hard of hearing (*See Tab 5*). This advisory provides guidance to consumers if they have problems viewing closed captioning on DTV and HDTV sets.

We have also partnered with a couple of organizations to help us disseminate DTV consumer education information. For example, we have partnered with the Consumer Electronics Retailers Coalition (CERC) and the National Association of Consumer Agency Administrators (NACAA). The “educational and training advisory” distributed by the FCC and CERC to retailers on June 12, 2007 addresses mandatory tuner and labeling requirements (*See Tab 6*). Through its comprehensive distribution network, CERC will ensure that the joint FCC/CERC advisory is distributed directly to thousands of retailers nationwide so that these retailers will have clear, unambiguous reminders of the mandatory tuner and labeling requirements. Millions of consumers considering purchases of television equipment will be the beneficiaries of this coordinated information exchange. Similarly, the joint advisory distributed by the FCC and NACAA to NACAA members on June 12, 2007, including state and local consumer agencies, is intended to provide information these agencies can use when responding to consumer inquiries about DTV (*See Tab 7*). NACAA will ensure that the joint FCC/NACAA advisory is distributed its member agencies who, collectively, interact with millions of consumers nationwide.

We plan to identify additional outlets through which we can distribute DTV consumer information to senior citizen and aging organizations, government agencies at all levels, state broadcasters’ associations, social workers, community organizations, low-income consumers and minority consumers. And, we added an option to our toll-free consumer line for consumers to request a packet of information on DTV. We have received several hundred requests to date.

We hope to encourage the news media to highlight the upcoming transition in the ongoing news coverage. To this end, we anticipate placing op-eds, working with reporters, and granting interviews for a variety of outlets. For example, we will propose to do a series of articles about the DTV transition in various publications. Of course, we will make Commission staff available to participate in interviews on local television and radio programs as well as local print outlets – either here in DC or traveling for Commission events, such as the media ownership/localism hearings.

*Advisory Committees.* In addition to these consumer advisories and other publications, we recently issued Public Notices announcing that our Consumer Advisory Committee (CAC) and Intergovernmental Advisory Committee (IAC) will have the DTV transition as their principal area of focus for their current terms (*See Tab 8*). Through their work, the Committees will provide valuable insights that should further the Commission's goal of ensuring that all consumers are aware of the transition and understand what specific steps, if any, they must take to continue watching television after the transition is complete on February 17, 2009. And, as Chairman Dingell has requested, we have added a broadcast representative to the CAC. We expect that these Committees will provide the Commission with specific recommendations on how the Commission can best ensure a smooth transition.

*Events and Conferences.* Our event participation has several important objectives: distributing DTV consumer information to individual consumers and organization leadership, providing information that can be used to conduct local DTV transition awareness programs, and tapping into networks that can be used to disseminate DTV information to consumers. The Commission has participated in a significant number of conferences where we have disseminated information concerning the digital transition. A complete list of these events we have participated in, to date, can be found in Tab 9 (*See Tab 9*).

For example, just last year, the Commission spoke and/or disseminated DTV materials at over 30 conferences and events, including the NAACP Annual Conference here in D.C. and "Ask the FCC" Workshops in Harlem, NY and at centers for senior citizens in Poughkeepsie and Port Jervis, NY. In addition, we also sent representatives to the annual conference for the League of United Latin American Citizens, in Milwaukee, WI and the National Council of LaRaza in Los Angeles, CA. Other events attended include the American Library Association annual conference in New Orleans, LA, the annual American Association of Retired Persons Life@50+ annual conference in Anaheim, CA, the Midwest Black Family Reunion in Cincinnati, OH, the American Association of Family and Consumer Sciences annual conference in Charlotte, NC, and the National Association of the Deaf annual conference in Palm Desert, CA. We also participated in meetings and events attended by state and local government officials and tribal leaders, including the National Association of Consumer Agency Administrators annual meeting in Seattle, WA, the National Conference of State Legislatures spring forum in Washington, DC, and the annual meeting of the United Southern and Eastern Tribes in Jackson, MS.

Our event participation is geared in part toward reaching consumers who are more likely to be unaware of the upcoming digital transition. For instance, we have announced that our next Indian Telecommunications Initiative Regional Workshop and Roundtable, which will take place next month in Albuquerque, New Mexico, will focus on the DTV transition with the goal of assisting Indian Tribes in preparing, organizing and conducting their own DTV awareness programs and initiatives and helping to ensure that the Commission's and the Tribes' DTV transition education messages are consistent and effective (*See Tab 10*).

With respect to our education and outreach efforts to reach low-income consumers and senior citizens, earlier this year, we conducted presentations and provided DTV information at senior centers and retirement homes in Richmond, VA and in New York State. A couple months ago, we participated in a taped video segment on the DTV transition for "Retirement Living TV," a Web site containing TV programming on topics of interest to people aged 55 and up. According to a producer for Retirement Living TV, the site has a potential audience of some 23 million seniors. We intend to continue looking for opportunities such as this one to reach as many senior citizens as possible. We have contacted AARP to ask about similar opportunities such as speaking at their annual convention this fall and obtaining prime exhibition space on their convention floor.

In addition to these activities, we are exploring the possibility of conducting, in coordination with NTIA, demonstrations on the operation and use of DTV converter boxes for targeted audiences (e.g., senior citizens) at or near Commission field offices around the country and at the various conferences and events that we attend.

The Commission's plans to participate in another 50 events during the remainder of 2007 (*See Tab 11*). A list of the conferences and events that the Commission plans to attend in the upcoming 19 months can be found in Tab 11 to this letter.

*Internet.* Research by the National Association of Broadcasters reveals that most people expect that the Internet will be their number one source of information about the DTV transition. We constantly update the [dtv.gov](http://dtv.gov) Website to keep it current and to provide timely and useful information about the DTV transition for consumers who are Internet users. Research by our staff indicates that there are already thousands of links to the [www.dtv.gov](http://www.dtv.gov) Website. We will work with DTV Coalition members and other consumer and industry groups, as well as agencies at the federal, state, and local levels to ensure that links to the Website are located where consumers are most likely to find them. One indication of the increasing popularity of the Website is the fact that visits to it increased from an average of about 150,000 per month in October 2006 to over 250,000 per month in April 2007. As we expand and improve the national Web portal, we will coordinate with our local, state, tribal, federal, and industry partners to ensure their Websites are updated with current information. We are also exploring other means of reaching consumers on-line such as producing DTV-related podcasts and streaming videos that can be downloaded. For example, the Commission could produce a podcast that

demonstrates the operation of a converter box and other DTV-related equipment so that consumers could readily learn about how these technologies are used.

*Coordination with state, local, and educational entities.* We are also developing working relationships with state and local entities and educational institutions, and anticipate conducting joint DTV outreach programs at the local level. For example, we are working with the American Library Association to ensure that DTV information is conspicuously available in their more than 16,000 member libraries. Specifically, we learned in recent conversations by staff with the ALA that posters are particularly effective in reaching the many people who visit libraries everyday. As funding is made available, we are planning to produce posters to provide to the ALA for distribution to and posting at their member libraries.

Oftentimes children are more tech and media savvy than their parents and can be a means of ensuring that families are informed and prepared for the transition. We have also reached out to school districts in four states, including Florida, Illinois, Maryland and Michigan to enlist their cooperation and assistance in getting information into our schools about the DTV transition. We have also launched an innovative “DTV Deputy” program for children (*See Tab 3E*). This program, which contains a quiz available on our Website, is designed to teach kids about DTV and encourage them to take transition information to their parents, grandparents and other caregivers. We are evaluating ways in which we can encourage schools to take advantage of this educational program.

And, we have also developed a “DTV Toolkit,” which is a package of materials that can be used by government agencies, community organizations, and others to conduct their own DTV consumer outreach programs (*See Tab 3B*). For example, the kit contains sample news releases, sample radio PSAs scripts, and a variety of DTV fact sheets that these entities can use to educate consumers that we may be unable to reach directly.

In addition we are reaching out to other state and local entities to enlist their participation in consumer education efforts. We have sent letters, along with numerous DTV-related materials, to the following organizations: the National Association of Regulatory Utility Commissions, the National Association of Telecommunications Officers and Advisors, the National Council of State Legislatures, the National Congress of American Indians, other Tribal organizations, and the U.S. Hispanic Chamber of Commerce, to express our desire to work with them in educating their members about the upcoming transition and to solicit their ideas in getting the word out (*See Tab 12*). We plan to send letters to other organizations as well. It is our hope that by working closely with organizations such as these we can disseminate information at the local level and to groups that are otherwise hard to reach.

*Outreach to Targeted Communities.* The Commission is committed to educating as many consumers as possible about the upcoming transition. To this end, our Office of Communications Business Opportunities (OCBO) and Disability Rights Office (DRO) are engaged in disseminating information to small businesses and the disability community, respectively. As detailed in Tab 11, these offices will be doing digital

transition outreach at numerous upcoming conferences. And, we are in the process of sending DTV outreach material to OCBO's database of over 3,000 small business entities and other interested parties, including small, minority and women-owned businesses (*See Tab 13*). Along with this material, we are also soliciting ideas for joint efforts that we may undertake to reach small businesses. Some of these recipients include organizations such as the Independent Spanish Broadcasters Association, the National Association of Black Owned Broadcasters, and the American Cable Association.

Similarly, the DRO has sent a DTV outreach letter to over 20 disability groups, representing individuals with hearing, speech, and sight disabilities (*See Tab 14*).

Finally, we have translated our DTV publications into Spanish and have made them available on the DTV Website (*See Tab 3C*).

*DTV Coalition.* We have already been working closely with the DTV Coalition, a stakeholder organization representing consumers such as AARP and the American Association of People with Disabilities, the U.S. Chamber of Commerce, broadcasters, retailers, manufacturers of consumer electronics, and dozens of other organizations, to help disseminate information about the transition and to coordinate outreach efforts. While we have already been participating in its meetings to date, we anticipate becoming an official member of the DTV Coalition.

Last year we posted a public service announcement (PSA) about the DTV transition throughout the District of Columbia metropolitan transit system (*See Tab 15*). Should funding become available, we will produce some targeted, additional PSAs in coordination with the national, comprehensive DTV Public Service Announcement (PSA) campaign by the members of the DTV Coalition. Because, the DTV Coalition plans to air their PSAs next year, we would endeavor to release additional printed PSAs in 2007 similar to the one posted last year at D.C. metro stations. In any event, we plan to coordinate with the DTV Coalition to ensure that all PSAs are produced and distributed in a manner that will best promote consumer awareness and education.

*DTV Workshop.* The Commission intends to host a DTV Consumer Education Workshop in the late summer/early fall. This workshop, to be held at Commission headquarters, would consist of officials from organizations who represent a broad range of DTV stakeholders, including government agencies, industry, tribal organizations, disability community groups, non-English speaking groups, senior citizen organizations, low-income consumer representatives and other public interest organizations that may represent underserved customers or those living in rural areas. The purpose of this workshop would be to provide an opportunity for all interested parties to jointly discuss the challenges associated with the upcoming transition and explore ways in which these organizations can work together, in conjunction with the Commission, to develop coordinated consumer education activities.

*FY2008 Spending Plan.* In addition to helping further the activities already discussed, the \$1.5 million we have requested will allow us to undertake several additional initiatives

which will greatly enhance our efforts to reach those consumers who currently rely upon over-the-air service. As outlined in the attached (*See Tab 16*), we would like to develop contracts with a news feature service for developing and distributing periodic articles and TV and radio features regarding the transition to digital TV and conduct companion distribution to Spanish language stations and publications. In addition, in order to reach consumers more directly, we intend to contract with information distribution services to target low-income communities and senior citizens with DTV transition information through retail stores and other alternative outlets. This would include, for example, the placement of easy to understand DTV transition publications in local grocery stores, community centers and other public locations in low-income and rural communities. We anticipate working with the news media and producing and distributing satellite media tours; audio news releases and tours, and coordination of live and recorded media interviews with FCC officials to make consumers aware of DTV transition-related developments.

In addition we plan to contract with state and local government agencies and community organizations to disseminate DTV transition information directly to consumers. This could include direct distribution of DTV information to walk-in clients, enclosing information in consumer correspondence, translating materials into multiple languages to meet client and constituent language needs, posting of DTV information and links on agency Web sites, and training local volunteers to provide direct assistance to consumers.

Similarly, we expect to develop and distribute multimedia outreach program packets consisting of Web, print, video and audio materials that can be used by organizations in conducting DTV transition awareness campaigns. Working in coordination with DTV Coalition members, we are identifying charitable and social service agencies at the federal, state and local levels and will contact them directly via letters, email, and telephone calls regarding the availability of DTV transition awareness materials that would aid them in informing and assisting the consumers they serve. Of course, these materials will be posted prominently on our Web site and downloadable for any one wishing to use them.

We estimate that the additional funds will allow us to expand our dissemination of published materials through targeted direct mailings of DTV-related information to approximately 300,000 households, with a focus on underserved communities and senior citizens. And, we would translate our DTV consumer education materials into languages other than Spanish, possibly including French and Mandarin, and distribute these materials through government and community organizations serving immigrants and non-English speaking consumers. Finally, we would continue our participation in consumer and industry workshops, conferences and expositions. We would spend money to develop DTV-specific exhibits and to conduct equipment demonstrations at major consumer events such as the AARP conference. We would also participate in DTV-specific community-based "Ask the FCC" programs in order to distribute DTV consumer information to individual consumers and organization leadership, provide information that can be used to conduct local DTV transition awareness programs, and tap into

networks that can be used for disseminating DTV information to large numbers of consumers.

Finally, we will consider surveying consumers about their awareness of and the steps they must take to prepare for the transition.

*Utilization of Existing Commission Authority.* You suggest several ways the Commission could use its existing authority to help inform consumers, and we will endeavor to implement them. I have already circulated to the other Commissioners a Notice of Proposed Rulemaking that seeks comment on requiring broadcasters, multichannel video programming distributors, retailers, and manufacturers to take certain actions to publicize the digital transition. Specifically the item: (1) asks whether the Commission should require, as a license condition or through customer service or other consumer protection or public interest requirements, all multichannel video distributors (MVPDs) to insert periodic notices in customer bills that inform consumers about the digital television transition and their customers' future viewing options, with civil penalties for noncompliance; (2) asks whether we should require broadcast licensees and permittees to report, every 90 days, their consumer education efforts, including the time, frequency, and content of public service announcements aired by each station in a market, with civil penalties for noncompliance; (3) seeks comment on whether we should require manufacturers to include information with television receivers and related devices about the transition, with civil penalties for noncompliance; and (4) asks whether we should work with NTIA to require retailers who participate in the converter box coupon program to detail their employee training and consumer information plans and have Commission staff conduct spot inspections to ascertain whether such objectives are being met at stores.

In addition, this rulemaking seeks comment on requiring partners identified on our Website to report on their specific outreach activities on a formal basis (we already receive such reports on an informal basis).

Finally, it asks whether we should require television broadcasters to air periodic public service announcements and a rolling scroll about the digital transition.

*Utilization of Commission Resources.* You mention in your letter some additional initiatives the Commission could undertake. Some of these we have already undertaken and some we will implement going forward.

For example, we have already asked our advisory committees to provide us recommendations on how best to conduct our outreach efforts. We also intend, as you suggest, to coordinate with NTIA in its dispensation of converter box coupons. As soon as coupon applications are available, we intend to distribute these from our regional field offices.

We will also ensure that our Public Safety and Homeland Security Bureau solicits the help of local emergency officials in coupon application distribution. In addition, the

Public Safety and Homeland Security Bureau will be attending all the events listed in Tab 11 and, at these events, will work with local emergency officials to disseminate information about the upcoming transition.

As described above, our Office of Communications Business Opportunities Office (OCBO) and Disability Rights Office (DRO) are already actively engaged in conducting outreach to small businesses and the disabled community, respectively.

As you suggest, and as described above, we have already charged two of our advisory committees, the CAC and IAC, with looking at these issues. As also discussed above, we have sent letters to the National Association of Regulatory Utility Commissions, the National Association of Telecommunications Officers and Advisors, the National Congress of American Indians and other tribal organizations with regard to consumer outreach and education about the transition. In addition, as mentioned earlier, the digital transition will be the focus of next month's Indian Telecommunications Initiative Workshop and Roundtable.

As you suggested, we have also prepared material concerning the transition that Congressional offices can send to their constituents (*See Tab 17*). We are forwarding to each office a package of such information.

The Commission's Website already links to NTIA's converter box coupon program. (*See Tab 3A*). We will also be sure to enable consumers to download a converter box application from our [www.dtv.gov](http://www.dtv.gov) and [www.fcc.gov](http://www.fcc.gov) Websites as well as post on these Websites a list of retail locations through which consumers can redeem converter box coupons. When appropriate, we will issue a Public Notice announcing that these materials and information are available on our Website.

I am committed to ensuring that Americans are not left in the dark after the digital transition. Through all of our activities -- policy, enforcement, and consumer outreach -- the Commission is dedicated to minimizing the negative impact of the digital transition. I look forward to working closely with Congress, other agencies, and industry and consumer groups during the next 19 months to minimize the burden on consumer and ensure that all consumers reap the benefits of the digital transition. In particular, we plan to continue our close coordination with the NTIA and the DTV Transition Coalition to ensure that all Americans are aware of the transition and understand what steps they need to take in order to continue watching TV when analog broadcasting ends. I intend to inform you on a quarterly basis on the progress of this transition.

Thank you for your interest in this very important matter. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin J. Martin". The signature is written in a cursive style with a prominent flourish at the end.

Kevin J. Martin

**Attachments**

**STATEMENT OF  
CHAIRMAN KEVIN J. MARTIN**

*Re: DTV Consumer Education Initiative, MB Docket No. 07-148*

One of the Commission's top priorities is to do everything in its power to facilitate a successful DTV transition. Ensuring that no Americans are left in the dark after February 17, 2009 is an enormous undertaking. Significantly, it is one which no single entity, public or private, can achieve alone. Rather, it requires the commitment and cooperation of government, industry, and consumer groups. It is the Commission's responsibility to ensure these parties fulfill their commitments in a correct, clear, and consistent manner. Today's item requires various entities – television broadcasters, multichannel video programming distributors (MVPDs), manufacturers, retailers, and telecommunications carriers - to come together and do their part to promote consumer awareness about the transition and how to prepare for it.

I am pleased that many of these industry groups have already initiated public awareness campaigns and the order we adopt today gives them the flexibility to continue these efforts. By working together, and using such tools as public service announcements, screen crawls, and notifications in monthly bills, we will be able to reach as broad an audience as possible, including those segments of the population that are hard to reach including, senior citizens, non-English speaking and minority communities, people with disabilities, low-income individuals, and people living in rural and tribal areas.

The Commission will continue to take whatever actions are necessary to minimize the potential burden the digital transition could impose on consumers and maximize their ability to benefit from it. The next 12 months will undoubtedly be challenging. Nevertheless, it is my hope that through the combined efforts of government, industry and advocacy groups American consumers will reap the rewards that the digital transition has to offer.

**CONCURRING STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

*Re: DTV Consumer Education Initiative, MB Docket No. 07-148*

Today's Order finally adopts many of the suggestions made nine months ago by Chairmen Dingell and Markey regarding steps the Commission could take on its own authority to compel industry DTV consumer education efforts. Unfortunately, one of the most important steps is not something the Commission can compel—the establishment of a federal Inter-Agency Task Force to oversee and coordinate the government's efforts. That is why Chairman Inouye and Chairman Dingell's recent call for the White House to establish just such a Task Force is so critical. We need accountability and clear lines of authority, both among federal agencies and in government's dealings with industry. That was the way the "Y2K" problem was addressed leading up to 2000. I actively participated in those efforts as Assistant Secretary of Commerce—I know what a coordinated, well-organized and effective national effort looks like. It doesn't look like this.

This transition actually requires more of individual consumers than did Y2K. The DTV transition requires millions of households (no one really knows how many) to take significant action prior to the transition date. Consumers must not only become aware of the transition; they have to understand whether and how it affects them, decide among various course of action, take affirmative steps such as applying for government coupons and purchasing a converter box, and physically install the new equipment and make it work. These challenges are compounded by the fact that many of the consumers most affected by the transition may be harder to reach or less technically savvy. Our efforts must be designed to reach the most vulnerable. If we happen to over-inform some consumers in the process, it is a small price to pay. We will never get this exactly right. We can either do too little or do too much. If we are smart, we will err on the side of doing too much.

The other thing we must do is tell consumers the truth. The American people do not want their information sugar-coated by marketing consultants or hedged into obscurity by cautious lawyers. They want it straight, and they will forgive anything other than being lulled into a false sense that the transition will be less disruptive than it turns out to be.

I wish today's item gave me more comfort that we are doing everything we can to prepare the American people for the approaching deadline. As I've said before, the best way to reach analog television viewers is through analog television programming. Broadcasters' on-air efforts are thus the linchpin of a successful transition.

Which brings me to the National Association of Broadcasters' "safe harbor" proposal. The premise of this proposal is that the Commission should step back and let the experts handle it. The NAB cites its extensive marketing experience as well as its hiring of Starcom MediaVest Group to help develop a plan "to engage consumers across numerous media elements." Starcom evaluated the DTV campaign using its exclusive "state-of-the-art television optimizer" named Tardiis, which "harnesses the power of viewing at the program level to provide optimized schedules for individual brands, as well as allocating programs across multiple products." The end result, according to NAB, is that "we will generate public awareness of the DTV transition in the form of over 132 billion impressions."

I readily admit that much of this marketing jargon is Greek to me. I would not know a state-of-the-art television optimizer if I tripped over one. But I am concerned about the apparent focus on creating consumer awareness through billions of "impressions." The goal is not simply to bombard consumers with ephemeral "impressions" about the transition, but to get consumers to *act* in ways that many will find confusing, disruptive and daunting. Indeed, a recent survey by the *Consumer Reports National*

*Research Center* found that even among the growing number of consumers who are aware of the transition, 74% still have “major misconceptions” about the how the conversion will affect them. In other words, in order for the transition to succeed, awareness must be followed by understanding, planning and, ultimately, effective action. I can only hope that the implementation of the NAB plan will reflect the true scope of the task before us.

I know that many broadcasters are working diligently on the DTV transition. They are expending money and human resources to make it happen. But good intentions won't get us from here to there, nor will spending money in helter-skelter fashion. A national challenge of this magnitude requires cooperation and coordination. Some broadcasters have told me that, yes, they are launching consumer education programs but, no, they haven't coordinated their efforts with other stations in their market. That's a recipe for continued confusion and for leaving some consumers behind. So I continue to believe that a coordinated, private sector-public sector partnership is absolutely essential—it may just be our last best hope for something resembling a smooth DTV transition.

I concur to get some action started. But I limit myself to concurrence for want of what is truly needed.

**STATEMENT OF  
COMMISSIONER JONATHAN S. ADELSTEIN  
APPROVING IN PART, DISSENTING IN PART**

*Re: DTV Consumer Education Initiative, MB Docket No. 07-148*

This *Order* is long overdue.

After much delay, the Commission is finally adopting measures to ensure that Americans are aware of the DTV transition. I support this item because it is a critical *first* step towards developing a comprehensive consumer education plan – an essential part of the broader DTV transition effort that has sorely lacked focus, leadership and coordination. I am also pleased Chairman Martin has agreed to implement my proposal to reconstitute the Commission’s intra-agency DTV task force that was improvidently dismantled some time ago. We should now act on another one of my proposals – a federal government-wide, inter-agency task force.<sup>1</sup>

With disappointment, I dissent in part from this item because the majority of my colleagues have refused to agree to prepare a DTV transition report to Congress and the American people with a detailed plan to reach *and* assist at-risk, over-the-air reliant communities. The Commission’s unwillingness to prepare such a report ignores sound management practices, snubs the recommendations of objective expert observers, and, frankly, defies common sense. It perpetuates uncertainty at a time when everyone needs to know and help execute the game-plan. The quarterback needs to let other players know the play to execute; that’s the only way this nation will win on February 17, 2009.

Unfortunately, the Commission’s refusal to prepare a DTV report to Congress is the latest illustration of its stubborn unwillingness to be proactive and to mitigate risks associated with the transition. While oversight hearings and letters from Congress have certainly made us much more engaged, congressional prodding is not a substitute for Commission planning and leadership.

The Commission’s passive, *reactive* approach has had real consequences on the DTV transition. It has unnecessarily made the daunting task of executing an under-funded, national transition even more difficult. For example, the lack of an analog pass-through feature in the vast majority of the digital-to-analog converter boxes available to consumers could have been avoided. The Commission – the federal agency with a most talented, skilled staff of experts in communications – should have engaged the National Telecommunication Information Administration (NTIA) and participated in the converter box coupon rulemaking proceeding. The NTIA, the Department of Justice, and the Small Business Administration have participated in Commission proceedings whenever they have had an interest to do

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<sup>1</sup> For nearly two years, I have repeatedly called on the FCC and the NTIA to take leadership in creating an *inter-agency* task force. See Keynote Address of Jonathan S. Adelstein, Commissioner, FCC, “I Want My DTV: Building a National DTV Consumer Education Campaign,” Entertainment Technology Policy Summit, Consumer Electronics Association (March 15, 2006), at p. 4. [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-264354A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-264354A1.pdf).

Congressional leaders from both political parties have made similar requests, leading to the extraordinary step by Senate Chairman Inouye and House Chairman Dingell to send a letter to the President urging the creation a federal inter-agency task force.

so. The Commission should have done the same. Instead of lending its expertise to the process, the Commission equivocated about its leadership role in the DTV transition which resulted in the failure to participate in NTIA's coupon converter box proceeding. The Commission's lack of engagement with NTIA, particularly during the converter box coupon program rulemaking, has truly complicated the DTV transition for television viewers and the entire broadcasting industry, especially the millions of households that rely on Class A, Low Power and analog translator stations.

Our painfully slow action on a comprehensive education effort is yet another illustration of the Commission's stubborn unwillingness to take proactive steps and to mitigate risks associated with the transition. As the Government Accountability Office (GAO) has found, "not having a comprehensive plan for the DTV transition limits the government's ability to measure efforts against planned goals, set milestones, and assess risks."<sup>2</sup>

For nearly two years, I have been calling on this Commission to, among other things, develop "a coordinated, comprehensive public/private campaign to educate the American people" about the benefits of digital broadcasting and the steps households need to take to continue receiving the over-the-air signals of full-power television stations.<sup>3</sup> I urged the Commission to take advantage of the time we had – *and have now lost* – to make the DTV transition a real national priority by developing an outreach and education plan that integrated the efforts of other federal agencies, state, local and tribal governments and permitted private industry and consumer interest organizations to develop their complementary activities. This coordination was, and still is, needed because of the limited federal resources we have to target, reach, inform and assist consumers to make the transition successfully.

After nine months since Congress prodded us to pay more attention to DTV education,<sup>4</sup> today the Commission is finally establishing baseline consumer education standards for broadcasters, cable and direct broadcast satellite operators and other industry regulatees. This *Order* is an important step towards developing a coordinated DTV transition message and national education effort. For instance, we emphasize that consumers should specify that this is a transition for "full power" stations. The Commission's own message on posters and some education materials still reads "analog broadcasting end February 17, 2009," even though we know fully well that is not accurate. If we cannot get the technical details straight, how can we possibly expect millions of casual observers to do so?

While I approve many key features of this *Order*, I must dissent in part because we continue to demonstrate an unwillingness to marshal the expertise of Commission staff and the consultative services of public relations and marketing vendors to develop a report to the nation about the critical next and final steps necessary to ensure a smooth transition on February 17, 2009.

The DTV transition is indeed an enormous undertaking, and doomsday scenarios are counterproductive. But we should have a plan in place so industry, Congress and the American people

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<sup>2</sup> "Increased Federal Planning and Risk Management Could Further Facilitate the DTV Transition," U.S. Government Accountability Office, GAO-08-34 (November 2007) at p. 33.

<sup>3</sup> Keynote Address of Jonathan S. Adelstein, Commissioner, FCC, "I Want My DTV: Building a National DTV Consumer Education Campaign," at p. 2.

<sup>4</sup> This is in sharp contrast to the Commission's urgency to adopt the so-called "viewability," dual carriage order on September 11, 2007. To the surprise of many observers, the Media Bureau circulated a draft order three business days after reply comments were due, and the Commission adopted final rules within three weeks.

know what steps are coming next. The half-hearted efforts of a reluctant regulatory agency have made the transition more difficult to administer. As GAO recognized last November, “[s]ince FCC has the broadest telecommunication responsibilities in the federal government, it is in the best position to increase assurances of a successful transition through increased attention to high-level comprehensive planning, performance measurement, and risk mitigation efforts.”<sup>5</sup> The Commission should begin to take a more proactive leadership role in the DTV education effort. With less than a year left in the transition for full power television stations, time is running out.

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<sup>5</sup> GAO-08-43 at 33.

**STATEMENT OF  
COMMISSIONER DEBORAH TAYLOR TATE**

*Re: DTV Consumer Education Initiative, MB Docket No. 07-148*

I believe this Commission should be focused on two major policy goals: broadband deployment to every corner of America, and a successful DTV transition. These goals underscore our commitment to keep America safe, informed, and connected. Today's Order provides an example of resolving national public policy challenges through marketplace solutions, and public-private partnerships with both the industry we oversee, as well as non-traditional partners. This type of cooperative enterprise will keep us on track for the greatest technological revolution since the advent of color television. The plan outlined in today's Order provides a reasoned approach, necessary tools, and certainty for American consumers in this historic process.

The DTV transition is a unique situation which demands the involvement and attention of the Commission, Congress, and other governmental agencies- federal, state, and local. With only a year to go until the transition, it is imperative that we continue to work together, as industry leaders, regulators, and government officials, to ensure a successful DTV transition. The DTV transition is a massive technological conversion that affects us all. I applaud those broadcasters who are working to ensure that every citizen receives critical news, information, and emergency alerts both before and after the transition, and I encourage others to do the same.

**STATEMENT OF  
COMMISSIONER ROBERT M. McDOWELL  
CONCURRING IN PART**

*Re: DTV Consumer Education Initiative, MB Docket No. 07-148*

The Commission's top priority this year is the success of the DTV transition. We have worked hard on rules to guide broadcasters through the technical work of the transition; and I applaud their investment in digital facilities and commitment to serving their communities. The next step is to ensure that every over-the-air viewer in every community in America receives the message about the tremendous advances in picture quality and sound that DTV will bring. Moreover, members of the public need to know the practical steps they must take to make the transition in their own homes work smoothly.

I am delighted that the private sector, working with its government partners, has developed a strong plan to educate the American people about the DTV transition. I enthusiastically support inclusion of this plan as part of our order. The order permits broadcast stations to choose among three options regarding consumer education obligations – one suggested by the broadcast industry, one originated at the Commission and the third by public television stations.

Broadcasters – who have the greatest incentive to ensure that they keep their viewers post-transition – have developed a comprehensive and multi-faceted plan to educate consumers about the transition. As proposed by the industry, broadcasters who commit to this plan will engage consumers through a combination of multilingual public service announcements (“PSAs”) throughout the day (including prime-time), 30-minute programs, stories on the local news, online resources, community events and speakers and outdoor advertising. The plan was developed by drawing on the extensive marketing experience of the broadcasting industry about how to most effectively reach and educate viewers. Each broadcaster has the flexibility to tailor the plan according to what its expertise suggests will work best in its community. Eighty-four percent of all stations – both commercial and noncommercial – have already committed to the industry plan and these efforts have commenced. I am pleased that the Commission has adopted this plan as part of today's order. Forging a public-private partnership with the industries most affected by the DTV transition will result in an effective consumer education campaign that serves the public interest.

For stations that do not commit to the industry plan, today's order mandates that each broadcast day be divided into four quarters and requires that stations air a certain number of PSAs and crawls during each of those day parts during certain periods before and after the February 17, 2009, transition date. The order also requires that the PSAs and crawls contain specific information and be of a certain length. These requirements will ensure that stations that are not taking a multi-faceted approach at least use PSAs and crawls to inform viewers about the transition.

I am pleased that our order presents a feasible option for public television stations that recognizes the differences between commercial and noncommercial stations. Public television has developed a multi-faceted and targeted consumer education campaign of its own, dedicating airtime, grass-roots efforts and other resources worth over \$50 million. The order allows public television stations needed flexibility to comply with consumer education plans in ways that are relevant to their stations.

I applaud the consumer education efforts of several other industries as well. The Digital Television Transition Coalition -- formed in February 2007 by business, trade and industry groups in broadcasting, cable, satellite, consumer electronics, and retailers as well as grass-roots and membership organizations -- has commenced marketing and public education strategies to distribute consistent, accurate information about the transition to the public.

Separately, the cable industry launched an extensive campaign, which includes \$200 million in TV advertising, to educate viewers about the DTV transition. The campaign also includes community outreach through websites, brochures, local programming and other communications. We as viewers have begun to see the results of these efforts, with more to come. I hope that the requirements in the order that apply to MVPDs, consumer electronics companies and retailers give them sufficient flexibility with respect to delivering the appropriate message to their customers, while taking into consideration the government's interests in ensuring that viewers receive accurate and relevant information.

When the government mandates speech, as the Commission does today, we must adhere to the principles of the First Amendment and ensure that the requirements are narrowly tailored to advance our interests. Clearly, ensuring a smooth transition from analog to digital broadcasting is a substantial governmental interest. Our order today, however, gives stations a choice between a flexible and creative private sector solution or more regulation.

On the other hand, I note my concerns about the First Amendment implications of two parts of our order: first, requiring telephone companies that receive Universal Service funds to provide DTV transition information in the monthly bills of Lifeline/Link-up customers; and second, requiring winning bidders in the currently open 700 MHz spectrum auction to detail what, if any, consumer education efforts they are conducting. In both cases, the nexus between our governmental purpose and the means to achieve that purpose are quite remote. In the case of telephone companies, it is unclear whether there is a correlation between Lifeline and Link-up customers and over-the-air viewers. Our order makes no such correlation. Yet, the order requires phone companies to provide a message, on government's behalf, that is unrelated to the services they provide. With respect to the winners of the 700 MHz auction, they will not provide service until after the digital transition ends, and when they do, the service may not be related to television. Given the infirmities in rationale for both of these requirements, I would have preferred not to adopt these mandates. Therefore, I must concur in these parts of the order.