

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
DTV Consumer Education Initiative)	MB Docket No. 07-148
)	
_____)	

COMMENTS OF AT&T

AT&T recognizes the Commission's interest in ensuring a smooth transition from analog to digital broadcast television service. To that end, the Commission already has adopted far-reaching DTV consumer education requirements to ensure that consumers understand both the timing and the impact of that transition, as well as the steps they must take to prepare for that transition.¹ Among other things, the Commission has required broadcast stations to broadcast public service announcements regarding the transition (which alone should suffice to apprise consumers that rely on over-the-air broadcast signals of the steps they must take to continue receiving such signals after the transition); manufacturers to include notices of the transition on television receivers; MVPDs to include monthly notices on their bills regarding the transition and the impact it will have not only on televisions connected to their systems (which, in the case of AT&T and many other MVPDs, is none at all insofar as they already transmit a digital signal) but also on over-the-air reception devices; and eligible telecommunications carriers (ETCs) receiving federal Lifeline support to include in their monthly bills notice of the transition (on the theory that low-income customers are more likely than other consumers to rely on over-the-air

¹ *DTV Consumer Education Initiative*, MB Docket No. 07-148, Report and Order, FCC 08-56 (rel. Mar. 3, 2008) (*DTV Education Order*).

broadcast signals). The existing requirements (together with government education efforts – such as the Commission’s DTV transition website and consumer information telephone line) thus blanket consumers with information about the transition, and more than suffice to achieve the Commission’s goal of ensuring a smooth transition. Simply put, nothing more is required, and the costs of any additional requirements – such as those proposed in the Commission’s *Further Notice* in this proceeding² – would far exceed the minimal (if any) additional benefits that might result.

Because the additional requirements under consideration are unnecessary, they further stretch the already tenuous legal basis for the Commission’s DTV education initiative. US Telecom and others previously have explained the substantial legal issues – including the significant First Amendment concerns – raised by the Commission’s existing requirements. The additional requirements proposed in the notice are far more intrusive and, at most, tangentially related to the government concern they are intended to address. For example, the proposal to require ETCs to provide monthly billing notices to all of their customers – not just those purportedly at-risk low-income customers that supposedly rely disproportionately on over-the-air broadcast television – is completely un-tethered from the Commission’s objective of assuring that such “at-risk” consumers receive information about the transition, which was the only justification it offered for imposing the ETC notice requirement in the first place. The proposed requirements thus raise far greater legal issues, as US Telecom explains in its comments in response to the *Further Notice*, than those posed by the Commission’s existing requirements.

² *DTV Consumer Education Initiative*, MB Docket No. 07-145, Order on Reconsideration and Further Notice of Proposed Rulemaking, FCC 08-119 (rel. Apr. 23, 2008) (*Further Notice*).

AT&T will not reiterate here the points made by US Telecom regarding the legal impediments to the additional obligations proposed in the *Further Notice*,³ but rather identifies certain modifications/clarifications to those proposed obligations that would be necessary to minimize to the extent possible the adverse impact of those requirements on consumers and service providers. Among other things, if the Commission requires ETCs to provide monthly notices regarding the transition to customers other than low-income customers, it should not extend that requirement to encompass prepaid wireless customers. Because such customers prepay for the services they consume, AT&T and other wireless providers have had no need to establish detailed billing records for those customers, and consequently lack the information, systems, and methods and procedures to provide bills or other monthly notices to those customers, and thus to provide those customers information regarding the DTV transition except, perhaps, through SMS messages. But notifying such customers through SMS messages would be unduly burdensome on customers and service providers, as well as ineffectual in many cases. Because SMS messages are delivered only when a customer's handset is turned on, many customers would not receive DTV transition notices unless their providers sent such notices repeatedly, which would be burdensome for service providers and customers alike, not to mention highly intrusive and annoying for customers that leave their handsets on and receive multiple, duplicative messages. Moreover, SMS messages can carry only a very limited number of characters (AT&T, for example, can send only 160 characters in each SMS message). As a consequence, service providers would be required to transmit multiple messages to prepaid customers simply to convey all of the information required by the Commission's existing notice requirement, which again would be very burdensome, intrusive and annoying for customers and

³ Suffice it to say, however, AT&T concurs with US Telecom that the Commission should not impose those additional obligations.

service providers. Alternatively, if the Commission were to modify the information that must be conveyed to customers, the resulting SMS messages likely would be so cryptic as to cause the very customer confusion the Commission is seeking to avoid through its DTV education initiative. In any event, prepaid wireless customers comprise a relatively small proportion of AT&T's wireless customer base, and, in many cases, have alternative sources of information regarding the DTV transition.⁴ Consequently, the burdens of requiring wireless providers to notify prepaid wireless service customers of the DTV transition far outweigh the little, if any, benefit that might result from such a requirement.

In addition, if the Commission adopts an on-air DTV education requirement for MVPDs, it should not apply that requirement to any MVPD that lacks the ability to insert advertising and other messages into the programming carried on its systems. AT&T notes, in this regard, that it has not yet deployed the systems necessary to insert such messages in the programming it carries on its IPTV-based U-verse system.⁵ As a new entrant to the video distribution market, AT&T does not yet have the millions of subscribers necessary to support deployment of a national ad insertion system, let alone even more expensive local ad insertion systems for each market in which it offers service. In any event, wholly apart from the financial limitations on AT&T's ability to provide on-air DTV education messages, existing commercial ad insertion systems, which have been designed to work on traditional QAM-based cable-systems, simply will not work on AT&T's IPTV-based system. While AT&T and its suppliers have engaged in the technical work to modify those systems to function on AT&T's system for several years, AT&T

⁴ For example, many, if not most, prepaid wireless service customers purchase video distribution services from, *inter alia*, AT&T, cable, or DBS providers, and thus will receive monthly billing notices regarding the transition. Such customers also will continue to receive notices via over-the-air broadcast announcements.

⁵ AT&T notes, however, that it passes through any DTV education messages already carried in such programming – such as messages transmitted by over-the-air broadcasters.

will not be able to deploy a national ad insertion system until February 2009, at the earliest, and will not be able to deploy a local ad insertion system until 2010 or later. Consequently, AT&T will not have any ability to provide on-air DTV education until after the DTV transition is completed. The Commission therefore should exempt AT&T, and any other MVPD that lacks paid ad insertion capability, from any on-air DTV education requirement.

For the reasons discussed herein, the Commission should not expand the DTV education requirements adopted in the initial *DTV Education Order*. But, if it does, the Commission should not require wireless ETCs to provide monthly notices to prepaid customers, nor should it require any MVPD that lacks paid ad insertion capability to provide on-air DTV education.

Respectfully submitted,

/s/ Christopher M. Heimann

Christopher M. Heimann
Gary L. Phillips
Paul K. Mancini
AT&T Inc.
1120 20th Street, NW
Suite 1000
Washington, DC 20036
202-457-3058

June 27, 2008