

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

In the Matter of:	)	
	)	
Implementation of the DTV Delay Act	)	MB Docket No. 09-17
	)	
DTV Consumer Education Initiative	)	MB Docket No. 07-148
	)	
Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion To Digital Television	)	MB Docket No. 07-91
	)	
Implementation of Short-term Analog Flash and Emergency Readiness Act; Establishment of DTV Transition "Analog Nightlight" Program	)	MB Docket No. 08-255
	)	
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands	)	WT Docket No. 06-150
	)	
Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules	)	WT Docket No. 06-169
	)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band	)	PS Docket No. 06-229
	)	
Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010	)	WT Docket No. 96-86
	)	

To: The Commission, Office of the Secretary

**COMMENTS OF CENTEX TELEVISION LIMITED PARTNERSHIP**

Centex Television Limited Partnership ("Centex"), licensee of KXXV(TV), Waco, Texas, (FIN-9781), by its attorneys, hereby submits comments in response to the above-captioned rule making proceeding regarding changes to the Commission's rules governing the transition to

digital television.<sup>1</sup> In particular, Centex's comments address the narrow issue of post-transition DTV consumer education requirements and whether digital-only stations should continue to be required to broadcast consumer education information if an entire market has made the transition and terminated analog service. Centex submits that for markets in which all (or virtually all) of the television stations have ceased analog operations and are broadcasting exclusively in digital, little if anything is gained by the continuation of consumer education efforts. Accordingly, Centex suggests that the Commission revise its DTV consumer education rules to waive the post-transition consumer education requirements in certain circumstances, as detailed further below.

As the Commission recognizes in the *Second Report and Order and NPRM*, there may be circumstances in which a waiver of the post-transition consumer education requirements would be appropriate.<sup>2</sup> In the *Second Report and Order and NPRM* the Commission seeks comments on whether a station's operation as an analog nightlight station, or support of another station's operation as a nightlight station, should suffice to meet a station's consumer education obligations post-transition, *i.e.* after the June 12, 2009 national deadline.<sup>3</sup> Centex supports this Commission proposal, as the continuation of consumer education on digital channels post-transition serves little purpose. Any consumer viewing the commercials or crawls broadcast on a DTV channel will, by definition, have already successfully made the transition. Furthermore, to the extent that there are remaining analog over-the-air viewers in the market, those viewers will have the benefit of the news and information provided by the analog nightlight service. Repeated messages on the DTV stations will do nothing to inform lost analog viewers, but rather is simply preaching to the choir.

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<sup>1</sup> *Implementation of the DTV Delay Act, etc.*, Second Report and Order and Notice of Proposed Rulemaking, MB Docket 09-17, FCC 09-11 (Feb. 20, 2009) (hereinafter "*Second Report and Order and NPRM*").

<sup>2</sup> *Second Report and Order and NPRM* at ¶¶ 67-68.

<sup>3</sup> Id.

Extending this logic, Centex submits that the Commission should waive the post-transition consumer education requirements in those situations where an entire market transitions (or has already transitioned) to digital in advance of the June 12<sup>th</sup> deadline, just as the Commission did in the case of Wilmington, North Carolina. The Commission's rationale for waiving the DTV consumer education efforts post-transition apply equally to those situations where the entire market has transitioned to digital prior to June 12<sup>th</sup>. Requiring digital stations to continue to broadcast information regarding the forthcoming national DTV transition serves no purpose if the entire market has already completed the switch. In fact, it is arguably more confusing to consumers if the digital channels continue to broadcast PSAs, crawls, tickers, countdown clocks, etc., for the June 12<sup>th</sup> deadline, which has no relevance or impact on the market that has already transitioned. And just as in the case of Wilmington, North Carolina, so long as one or more stations in the market provide an analog nightlight service, lost consumers will be able to gain the necessary information.

In the case of the Waco-Temple-Bryan, Texas television market, in which KXXV(TV) is located, the commercial stations collectively terminated analog operations on February 17, 2009, consistent with the Commission's established procedures.<sup>4</sup> Thus, all of the commercial stations are now operating exclusively in DTV, and are supporting the efforts of KCEN-TV, the NBC affiliate in the market, which is providing 60 days of enhanced analog nightlight service, airing news and transition information to the market. Having survived the transition to digital, viewers in the market are increasingly confused (or annoyed) by the continuing PSAs, crawls, tickers, etc.

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<sup>4</sup> The two noncommercial stations in the market, KNCT(TV) and KAMU-TV, operated by local educational institutions continue to operate in analog. These smaller noncommercial stations do not provide service to the entire market, but rather serve discrete portions of the larger market. KAMU-TV has constructed and is operating its full, post-transition DTV facilities. KNCT(TV) has built and is operating its pre-transition DTV facilities, and will migrate back to its present analog channel for post-transition DTV operation.

which have no relevance in this particular market. Accordingly, Centex submits that the Commission should waive the post-transition DTV consumer education efforts for the stations in the Waco-Temple-Bryan, Texas market, as well as any other similarly situated market in which all, or virtually all, of the stations in a market have completed the DTV transition in advance of the June 12, 2009 deadline and are either providing analog nighttime service or are supporting another station in the market providing such service. Such a waiver is in the public interest and will ultimately benefit consumers, who are increasingly inured to the continued DTV messaging.

Respectfully submitted,

**CENTEX TELEVISION LIMITED PARTNERSHIP**

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