

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

In the Matters 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: Office of the Secretary
Attention: The Commission

COMMENTS OF UNITED COMMUNICATIONS CORPORATION

1. United Communications Corporation ("UCC"), by counsel, hereby submits its Comments in response to the *Notice of Proposed Rulemaking*,¹ in which the Commission

¹ *Implementation of the DTV Delay Act, et al.*, Second Report and Order and Notice of Proposed Rulemaking, FCC 07-218, MB Docket No. 09-17 (released February 20, 2009) (the “*NPRM*”).

proposed rules to implement the DTV Delay Act. Several of the DTV consumer education requirements proposed in the *NPRM* are not in the public interest as they pertain to television stations that have already completed their transition to digital-only broadcasting. These stations are fundamentally different from stations still operating with analog facilities.

2. Due to the fundamental differences between digital and analog stations, it does not make sense for them to share the same consumer education requirements. Under the consumer educational requirements, stations that have already transitioned should: (i) be allowed to reduce the number of DTV related PSAs and crawls, snipes and tickers (“CSTs”) they broadcast, regardless of option selected under the consumer education rules; (ii) stop broadcasting any type of countdown clock if they selected Option 2 under the requirements; and (iii) be deemed to have satisfied the Option 2 requirement of broadcasting a 30-minute DTV educational program if a program was aired before the stations completed their transition. As UCC will demonstrate in these comments, continued adherence to the consumer education requirements, as they stand now, for stations that have already transitioned will lead to consumer confusion and frustration, thwarting the very purposes of the requirements.

3. Stations that have already completed their transition can best serve the public interest in different ways from analog stations, such as providing transition related information on their websites; providing information over the telephone to concerned consumers; and running PSAs and/or CSTs offering assistance for viewers that have difficulty with post-transition viewing issues, such as purchasing an antenna or scanning for channels through set-top boxes. Accordingly, UCC urges the Commission to adopt revised consumer education requirements that treat stations operating with only digital facilities different from those that will continue to operate in analog until June 12, 2009.

BACKGROUND

4. UCC is the licensee of full-power television station WWNY-TV, Carthage, New York, Fac. ID 68851, and is a CBS affiliate. Besides its network programming, Station WWNY-TV has a long tradition of serving its community with local news, weather and emergency information, local programming, public service announcements, community outreach and sponsorships, as well as additional news and community information found on the station's website. The station selected Option 2 to comply with the DTV consumer education requirements and has run the required PSAs and CSTs; ran the 100-Day Countdown clock when the requirement was in effect; and broadcast the required 30-minute informational program.

5. The FCC granted UCC the authority for WWNY-TV to transition on February 17, 2009. The station completed its transition and is operating with its post-transition facilities pursuant to Special Temporary Authority. *See* BLSTA-20090209AOO.

ARGUMENT

6. On-Air DTV Transition Related Information. All DTV stations are currently required to provide DTV transition related information to viewers through PSAs, if a station selected Option 1 under the consumer educational requirements, or a combination of PSAs and CSTs, if a station selected Option 2. As noted, UCC selected Option 2. Additionally, UCC was required to broadcast a number of notifications to be able to transition on February 17, 2009. *See FCC Announces Procedures to Permit Television Stations to Terminate Analog Service On or After February 17, 2009*, Public Notice, FCC 09-6 (released February 5, 2009).

7. Since WWNY-TV made the transition to digital-only operations, UCC has received numerous calls from confused viewers. These callers ask why WWNY-TV continues to air DTV related notifications and are confused by the mention of June 12, 2009, as a transition

deadline, as the station is already operating in digital. These viewers are able to watch the digital broadcast of WWNY-TV and thus are not the at risk citizens that the transition CSTs and PSAs are targeting.

8. UCC is concerned that continued adherence to the required PSA and CST schedule under Option 2 of the consumer education requirements will further confuse, frustrate and alienate WWNY-TV's viewers. Now that the station has made the transition, UCC believes that it makes sense to decrease the number of PSAs and CSTs it is required to air so that viewers do not become overwhelmed with confusing and conflicting DTV transition information.

9. Additionally, UCC does not believe that it makes sense for it to inform viewers that the nationwide transition date is June 12, 2009. As noted, viewers have called WWNY-TV confused as to why the station would mention June 12th as the station already completed its transition. Therefore, UCC proposes that stations that have already transitioned be required to broadcast half the number of notifications under Option 1 or Option 2 of the DTV consumer education requirements. The FCC should not require these stations to mention June 12, 2009 as the transition deadline. A simple statement that other stations may have yet to make the transition should suffice. Stations that will continue to operate in analog will presumably still be required to inform viewers of the nationwide transition date, thus effectively targeting those that are still receiving analog programming, while avoiding confusion to those viewers who have already successfully transitioned. WWNY-TV's viewers have already made the necessary preparations to receive digital programming and do not need to be reminded of the transition. Instead, stations that have transitioned can inform viewers about post-transition viewing issues, such as purchasing an antenna or scanning for channels, through their notifications.

10. Consumers that have yet to make the preparations for receiving digital signals will more likely contact a station that has transitioned by telephone or through the Internet, as the consumer will not be able to receive the over-the-air notification or broadcast. Stations that have already made the transition can provide transition related information on their websites and answer consumer's questions over the telephone.

11. The 100-Day Countdown. Stations such as WWNY-TV that have already transitioned to digital-only operations and selected Option 2 under the DTV consumer education requirements should not be required to run a countdown of any kind. Although the DTV Delay Act established June 12, 2009, as the official transition date for stations nationwide to terminate analog service, for the viewers of a particular station, June 12th is meaningless unless that station will transition on that date. For stations that have already transitioned, any countdown requirement would only serve to confuse and frustrate viewers, as previously discussed.

12. 30-Minute Informational Program. UCC agrees with the Commission's tentative conclusion to deem stations that selected Option 2 to have satisfied the requirement that it air a 30 minute DTV informational program if the program was broadcast prior to the stations' transition.

CONCLUSION

13. As UCC has demonstrated, WWNY-TV's viewers are confused with the consumer education requirements as they are currently formulated. UCC does not believe its viewers are alone in this regard. This must be the case for the viewers of the number of stations that have already transitioned. To avoid further confusion, the rules must be modified for stations that are now operating with digital-only facilities. As proposed herein, such rule

modifications are in the public interest as they assist the public in making the transition to digital transition a more understandable and less confusing process.

Respectfully submitted,

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