

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of:

Petition for Rulemaking and Request for  
Declaratory Ruling Filed By The Coalition  
United To Terminate Financial Abuses of  
the Television Transition

MB Docket No. 09-23

**REPLY COMMENTS OF THE ATSC FORUM**



**ATSC FORUM**

Robert K. Graves  
Chairman

May 27, 2009

## **Introduction**

The ATSC Forum is pleased to submit these reply comments pursuant to the FCC's request for comment on the Petition for Rulemaking and Request for Declaratory Ruling filed by the Coalition United to Terminate Financial Abuses of the Television Transition (the "Petition").<sup>1</sup> For the reasons discussed herein, which echo the overwhelming majority of opening comments, the Commission should dismiss the Petition.

As numerous commenting parties have explained,<sup>2</sup> the FCC's digital television ("DTV") regulations and policies have enabled a vibrant DTV ATSC standard receiver market in which scores of manufacturers (including Vizio Inc. and Westinghouse Digital Electronics LLC – Petitioner's only two members) are successfully competing. Indeed, in the U.S. and elsewhere around the world, more than 140 million ATSC receivers have been sold since 1998.

## **ATSC Forum**

The ATSC Forum educates policymakers, broadcasters, equipment manufacturers, and other interested parties regarding the benefits of DTV technology and advocates adoption of the ATSC family of DTV standards. The ATSC Forum is a sister organization of the Advanced Television Systems Committee, an international cross-industry organization that develops and refines standards and best practices for DTV broadcasting.

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<sup>1</sup> See FCC Public Notice, *Media Bureau Action, Petition for Rulemaking and Request for Declaratory Ruling Filed By The Coalition United to Terminate Financial Abuses of the Television Transition, LLC*, MB Docket No. 09-23, DA 09-439 (Feb. 25, 2009).

<sup>2</sup> See, e.g., Comments of Koninklijke Philips Electronics N.V. and Qualcomm Inc., Comments of Mitsubishi Electric Corp; Comments of MPEG LA; Comments of Funai Electric Co. Ltd. et al.; Comments of Thomson Licensing LLC (filed April 27, 2009 in MB Docket No. 09-23).

Countries that have adopted the ATSC Standard are: Canada, Mexico, the United States, South Korea, Argentina,<sup>3</sup> Honduras and most recently, El Salvador.<sup>4</sup> Today, more than 500 million people around the world have access to DTV services enabled by the ATSC Standard. The ATSC Forum also provides support to countries in the process of choosing a DTV standard, such as Chile, Ecuador, Dominican Republic and the remaining countries of Central America.

**The U.S. Market for ATSC Compliant DTV Receivers is Thriving.**

The Petitioner's allegation that consumers are being harmed by the patent royalties that manufacturers must pay to utilize the ATSC Standard is completely false. The ATSC Standard has enabled a wonderfully vibrant market for DTV technology, which is evidenced by one simple fact: while the prices of ATSC-compliant DTV receivers have decreased sharply over the past decade, the number of DTV set models with advanced features has skyrocketed.

The successful U.S. market has created economies of scale that are unmatched by the European and Japanese standards. Approximately 30 million integrated ATSC television receivers were sold in the U.S. in 2008 alone, and at least that many are expected to be sold this year and every year thereafter for the foreseeable future. In addition to these full-featured receivers, mostly high-definition television sets, more than 29 million low-cost digital-to-analog

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<sup>3</sup> The claims in the May 27, 2009 submittal from Rob Glidden, an Internet blogger, that Argentina has abandoned the ATSC Standard and is poised to adopt the Brazilian version of the Japanese ISDB standard are not correct. Argentina adopted the ATSC Standard in 1998, but the government has changed several times since, and DTV broadcasting has not yet been implemented there. ATSC remains the official DTV broadcast standard for Argentina, and while the government is considering its options anew, no new decision has been announced. The ATSC Forum believes the chances are excellent that Argentina will reaffirm its choice of ATSC for the same compelling reasons that led to its adoption in 1998. Rob Glidden's statements regarding the state of affairs in other Latin American countries also are incorrect for the reasons stated herein.

<sup>4</sup> See ATSC Forum News Release, ATSC Forum Applauds El Salvador's Decision To Adopt ATSC (May 9, 2009) available at <http://atscforum.org/resources/pressreleases/2009/PR-090513.pdf>.

converter boxes have been sold in 2008-09 through the U.S. government-sponsored coupon program to help facilitate the digital television transition. These huge sales volumes, which do not include sales from South Korea, Canada, Mexico, Honduras, El Salvador or other Latin American countries where ATSC-compliant devices also are being sold, provide intense competition and tremendous economies of scale that facilitate low prices for ATSC DTV receivers and set-top converters.<sup>5</sup>

Prices for ATSC-compliant devices have fallen so much that HDTV sets in the U.S. cost less than comparable HDTV sets in Japan, less than standard-definition sets of the same size in Europe (which cannot even handle an HDTV signal), and even less than analog color television sets of the same size in South America or the Caribbean. Noteworthy examples of prices for ATSC receivers in May 2009 are a 19" Dynex LCD HDTV from BestBuy.com for \$160, and an RCA 20" SDTV for \$137, a 19" Vizio LCD HDTV for \$207, a Sansui 19" LCD HDTV with a built-in DVD player for \$240, and a 22" AOC LCD HDTV for \$219, all from Walmart.com.

Indeed, many hundreds of ATSC-compliant consumer products are available in the U.S., most of which are HDTV receivers, but also including some standard-definition receivers as well as internal receiver cards and USB receivers for personal computers, and a wide collection of combination products. In addition, more than 190 models of digital-to-analog set-top converters have been certified as being eligible for the U.S. government-sponsored coupon program.

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<sup>5</sup> Hundreds of thousands of ATSC receivers have been sold in Colombia, Chile, Peru and other Latin American countries, even though commercial ATSC signals are not or not yet on the air. This is because consumers want to purchase HDTV receivers that can process NTSC analog transmissions, and more often than not such products come with built-in digital ATSC receivers, because the products are built to satisfy the massive market in North America.

## **Patent License Fees Do Not Make ATSC a High-Cost Standard.**

As the ATSC Forum has frequently explained to governments around the world that are considering the ATSC Standard, ATSC offers the lowest receiver prices in the world, including any and all applicable patent license fees.

For most countries in Latin America and the Caribbean, few, if any, ATSC patents apply for receivers that are manufactured and sold in those countries. For receivers imported into those countries, the country of origin determines what patents apply. For the U.S., the maximum number of patents apply, because the U.S. is the largest television market in the world, and the most important in which to file patents for innovative technology.

In any event, patent license fees are not paid by broadcasters or by consumers, they are paid by manufacturers. In the highly competitive marketplace for ATSC equipment, a manufacturer may or may not be able to pass along these costs to consumers in the form of higher retail prices.

Notably, much of the intellectual property associated with the ATSC Standard is also used in the Japanese and European standards, so the licensing fees for these common technologies are identical among the competing standards. The fees that are unique to the ATSC Standard amount to about US\$5 per receiver. Competing standards also have intellectual property that is unique to those standards.

The maximum number of ATSC-related patents that apply anywhere in the world apply in the U.S., *yet the prices for ATSC receivers in the U.S., which include these fees, are by far the*

*lowest in the world.*<sup>6</sup> The reduction in prices due to the intense level of competition and the huge economies of scale far outweighs any arguable difference in the licensing fees associated with ATSC technology. Accordingly, there is no need or basis for any FCC regulation of the essential DTV patent rights associated with the ATSC Standard. It would be shortsighted indeed to regulate a successful standard based on unfounded claims that royalties are “too high.”

The ATSC Standard is a much more robust standard than the DVB-T (Europe) and ISDB (Japan) standards that the Petitioner is using as a basis for comparison. The ATSC Standard offers much better coverage than these other standards, including for indoor antennas. The European and Japanese systems require 2.5 times more power to achieve the same coverage as the ATSC Standard. Indeed, for these reasons the technology underlying the European and Japanese standards was rejected three times during the nine-year competitive process that was used for selecting the digital television broadcasting standard in the U.S.

Patent royalties associated with other DTV standards cannot be fairly compared to the ATSC Standard, because ATSC provides the greatest possible reception coverage, while delivering the highest digital payload, which translates into greater quantity and quality of services delivered to viewers.<sup>7</sup> More important, as explained above, retail prices for ATSC consumer products are the lowest in the world, including associated patent licensing fees.

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<sup>6</sup> Rob Glidden’s reference to the “lower-cost Japanese-Brazilian Digital TV system” is among the more outrageous and outlandish comments in his blog entry. The Japanese-Brazilian system requires transmitters with four times the peak power as the ATSC Standard to achieve the same reception coverage, imposing much higher acquisition and operation costs on broadcasters. Moreover, receivers for this standard are the most expensive DTV receivers in the world, due to the limited market for them. The first commercial set-top receivers in Brazil cost more than US\$600, and they still are substantially more expensive than ATSC receivers.

<sup>7</sup> By way of example, the ATSC Standard offers a 43% higher payload than the configuration used in the U.K. and a 30% higher payload than the configuration used in Spain.

As many commenting parties point out, the patent pools administered by MPEG LA have served an important role in furthering the nation's adoption of DTV technology by allowing dozens of manufacturers, including Petitioner's members, to secure rights to hundreds of essential ATSC DTV patents without the need to deal directly with multiple patent holders.<sup>8</sup> There is no reason to undermine MPEG LA's established and hugely successful licensing system, which offers reasonable and nondiscriminatory license terms for essential ATSC DTV patents.

In closing, despite the misleading allegations of widespread patent abuse by the Petitioner, there is a highly competitive and vigorous U.S. market for DTV products. The proposals in the Petition are unnecessary – and unwise – because the current system is working efficiently and effectively.

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<sup>8</sup> See, e.g., Comments of MPEG LA and Thomson (Apr. 27, 2009).

## Conclusion

For the reasons set forth above, which echo the opening comments of the Mitsubishi Electric Corporation, Philips, Qualcomm, Thomson, Zenith Electronics, MPEG LA, and the American Bar Association Section of Science and Technology Law, among others, the ATSC Forum respectfully requests that the FCC deny the Petition and take no further action on the Petitioner's requests.

Respectfully,

**ATSC FORUM**

A handwritten signature in black ink that reads "Robert K. Graves". The signature is written in a cursive style with a large, sweeping flourish at the end.

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May 27, 2009

## Service List

On the date indicated below, a copy of the foregoing Reply Comments of the ATSC Forum was filed in the above-referenced docket and sent to the following individuals as indicated below:

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May 27, 2009



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