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**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of )  
 )  
Amendment of Parts 73 and 74 of the ) MB Docket No. 03-185  
Commission's Rules to Establish Rules for )  
Digital Low Power Television, Television )  
Translator, and Television Booster Stations )  
and to Amend Rules for Digital Class A )  
Television Stations )  
 )

To: Federal Communications Commission

**COMMENTS OF THE CONSUMER ELECTRONICS ASSOCIATION**

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## SUMMARY

The Consumer Electronics Association (“CEA”), the preeminent trade association promoting growth in the \$170 billion U.S. consumer electronics industry, files these comments in response to the Federal Communications Commission’s proposal regarding the low power television (“LPTV”) transition to digital. CEA and its membership, which includes all major U.S. consumer electronics manufacturers and retailers, have been strong supporters of the digital television (“DTV”) transition throughout all its phases. Therefore CEA applauds the Commission’s proposal to establish a hard deadline in 2012 for LPTV stations to transition from analog to digital operations. Such a deadline will bring certainty to broadcasters, consumers, and manufacturers, thereby ensuring that the transition is accomplished as quickly and smoothly as possible. A timely transition is essential in light of the increasing demand for spectrum, since a transition to the more efficient DTV standard would free up spectrum for wireless broadband and other uses. A timely transition also is important to ensure that LPTV viewers have access to the same benefits of digital broadcasting technology achieved by the full-power DTV transition. For similar reasons, CEA also supports the proposed December 15, 2011 out-of-core transition deadline for LPTV broadcasters in the 700 MHz band.

The broad consumer benefits of both of these proposals far outweigh the costs of the transition, and the proposals should be effectuated without further delay. LPTV broadcasters have been on notice for years regarding the need to transition to in-core digital frequencies. The success of the process used to transition full-power TV stations to digital demonstrates the value of a hard transition deadline. A similar approach for LPTV will best facilitate transition of low-power broadcasters to digital, in-core frequencies without harming licensees or disenfranchising viewers. Both proposals would serve the Commission’s broadband and other policy goals as well as the public interest, and should therefore be adopted.

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To: Federal Communications Commission

**COMMENTS OF THE CONSUMER ELECTRONICS ASSOCIATION**

The Consumer Electronics Association (“CEA”)<sup>1</sup> respectfully submits these comments in response to the Further Notice of Proposed Rulemaking (“*FNPRM*”) issued by the Federal Communications Commission (“FCC” or “Commission”) on September 17, 2010 in the above-captioned proceeding.<sup>2</sup>

**I. INTRODUCTION**

Many of CEA's more than 2,000 members contributed to the development of the digital television (“DTV”) standards and now design, manufacture, distribute, and sell a wide range of television receivers and related devices that rely on the digital standard. As such, CEA and its

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<sup>1</sup> CEA is the preeminent trade association promoting growth in the \$170 billion U.S. consumer electronics industry. CEA's membership includes all major U.S. consumer electronics manufacturers and retailers.

<sup>2</sup> *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster stations and to Amend Rules for Digital Class A Television Stations*, MB Docket No. 03-185, Further Notice of Proposed Rulemaking and Memorandum Opinion and Order, FCC 10-172 (rel. Sept. 17, 2010) (“*FNPRM*”).

member companies have been strong supporters of the DTV transition throughout all its phases. CEA and its members consistently seek to bring the latest technologies and services to all consumers, including those who rely on LPTV signals.

CEA applauds the Commission's proposal to establish a hard deadline in 2012 for LPTV stations to transition from analog to digital operations. Such a deadline will bring certainty to broadcasters, consumers, and manufacturers, thereby ensuring that the transition is accomplished as quickly and smoothly as possible. A timely transition is essential in light of the increasing demand for spectrum, which can be freed up for wireless broadband and other uses, in part, by transitioning LPTV operations to the more efficient DTV standard. A timely transition also is important to ensure that LPTV viewers have access to the same benefits of digital broadcasting technology achieved by the full-power DTV transition. For similar reasons, CEA also supports the proposed December 15, 2011 out-of-core transition deadline for LPTV broadcasters in the 700 MHz band.

The broad consumer benefits of both of these proposals far outweigh the costs of the transition, and the proposals should not be further delayed. LPTV broadcasters have been on notice for years regarding the need to transition to in-core digital frequencies. The success of government, working with industry and others, in transitioning full-power TV stations to digital demonstrates the value of a hard transition deadline. A similar approach for LPTV will best facilitate the transition of low-power broadcasters to digital, in-core frequencies without harming licensees or disenfranchising viewers.

## **II. ACHIEVING THE LONG-PLANNED LPTV TRANSITION BY 2012 WILL BENEFIT VIEWERS AND LIBERATE SPECTRUM FOR WIRELESS BROADBAND AND OTHER USES**

### **A. The LPTV Digital Transition Has Long Been a Part of the Digital Transition Plan**

As the *FNPRM* notes, the Commission has sought “[s]ince the initiation of the digital television conversion process ... to ensure an expedited and successful transition for all television services,” including LPTV.<sup>3</sup> In 2003, the Commission announced its intention “to establish a regulatory framework [to] hasten the transition of LPTV and TV translator stations to digital operations,”<sup>4</sup> and in 2004, the Commission determined that LPTV stations were statutorily required to convert to digital “at some fixed time after the deadline for full-service television stations.”<sup>5</sup> Subsequently, in 2007 the Commission noted that transition deadlines for LPTV stations would be addressed,<sup>6</sup> and in 2009, the Media Bureau acted “to assist all LPTV and TV translator stations in their transition to digital.”<sup>7</sup> The proposals in the *FNPRM* are

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<sup>3</sup> *FNPRM* ¶ 7.

<sup>4</sup> *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, 18 FCC Rcd 18365, 18366 ¶ 2 (2003).

<sup>5</sup> *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, 19 FCC Rcd 19331, 19338 ¶ 17 (2004) (“2004 Digital LPTV Order”); *id* at 19337 ¶ 13 (“We conclude that [the Communications Act of 1934, as amended (the “Act”)] ultimately compel[s] LPTV, TV translator and Class A stations to convert to digital. As an integral component of the nation’s television system, we believe that Congress intended LPTV, TV translator and Class A stations to transition to digital service, thereby permitting their viewers to realize the benefits of digital broadcast technology.”).

<sup>6</sup> *Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion To Digital Television*, 23 FCC Rcd 2994, 2999 n.5 (2007) (noting that “the transition timing for low power, translator and Class A stations will be addressed in a separate proceeding”).

<sup>7</sup> *Commencement of Rural, First-Come, First-Served Digital Licensing for Low Power Television and TV Translators Beginning August 25, 2009*, 24 FCC Rcd 8911, 8911 (MB 2009).

necessary and wholly unsurprising next steps toward achieving the Commission’s long-standing goal of transitioning LPTV to digital.

**B. Transitioning LPTV to Digital Is Increasingly Important**

While the Commission has long planned to transition LPTV, the need to do so is greater today than ever before. The U.S. faces a “looming spectrum crisis,”<sup>8</sup> and the LPTV transition will free up critical spectrum for wireless broadband use. Additionally, LPTV viewers will benefit from the transition to a more modern digital TV experience.

**1. The U.S. faces a looming spectrum crunch which the LPTV transition to digital can help address**

The United States faces a “spectrum crunch” as wireless broadband usage continues to grow while available spectrum becomes saturated.<sup>9</sup> As the National Broadband Plan (“NBP”) notes, “If the U.S. does not address this situation promptly, scarcity of mobile broadband could mean higher prices, poor service quality, an inability for the U.S. to compete internationally, depressed demand and, ultimately, a drag on innovation.”<sup>10</sup> The Commission has embraced the

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<sup>8</sup> Prepared Remarks of Chairman Julius Genachowski, Federal Communications Commission, to International CTIA WIRELESS I.T. & Entertainment at 4 (Oct. 7, 2009), *available at* [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-293891A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-293891A1.pdf).

<sup>9</sup> *See* Prepared Remarks of Chairman Julius Genachowski, Federal Communications Commission, to FCC Spectrum Summit at 3 (Oct. 21, 2010) (“If we don’t act to update our spectrum policies for the 21st century, we’re going to run into a wall – a spectrum crunch – that will stifle American innovation and economic growth and cost us the opportunity to lead the world in mobile communications.”), *available at* [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-302331A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-302331A1.pdf); *see also* Connecting America: The National Broadband Plan, Federal Communications Commission, Mar. 16, 2010 at 77 (“The growth of wireless broadband will be constrained if government does not make spectrum available to enable network expansion and technology upgrades.”) (“NBP”).

<sup>10</sup> NBP at 77.

Plan's conclusion that U.S. consumers will suffer without significant amounts of new spectrum allocated to wireless communications.<sup>11</sup>

As part of the solution to this spectrum crisis, the NBP recommends transitioning LPTV as a key step toward more efficient TV use, in furtherance of the Commission's ultimate goal of freeing up high-quality spectrum for reallocation to wireless broadband<sup>12</sup> and other new services. Specifically, the Plan recommends that the Commission "establish a deadline to achieve the DTV transition of low-power TV (LPTV) stations."<sup>13</sup>

Because consumer demand for wireless broadband is rapidly outpacing the supply of additional spectrum, the FCC should establish an aggressive, but achievable, hard date for the LPTV digital transition. Together with other Commission actions currently underway, such action will help ensure the most efficient use of spectrum.

## **2. LPTV viewers deserve to enjoy the benefits of digital broadcasting**

The LPTV transition to digital also has become increasingly important, as the full-power DTV transition leaves LPTV viewers behind technologically. Full-power TV stations transitioned to digital operations over 18 months ago, and the vast majority of consumers transitioned smoothly and successfully with the assistance of government, consumer groups, and the industry. Across the country, full-power TV stations now provide their viewers with clearer sound and video, as well as other advanced services. LPTV viewers deserve to experience these

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<sup>11</sup> See Federal Communications Commission, *MOBILE BROADBAND: THE BENEFITS OF ADDITIONAL SPECTRUM*, October 2010, at 2 ("[M]obile data demand is likely to exceed capacity under current spectrum availability in the near-term, and ... meeting this demand by making additional spectrum available is likely to create significant economic value.").

<sup>12</sup> NBP at 92.

<sup>13</sup> NBP at 92 (Recommendation 5.8.5) (suggesting a transition deadline prior to 2015).

benefits of digital technology. For example, digital broadcasting will enable LPTV broadcasters to offer High Definition (“HD”) content. It will also enable multi-casting, interactive capabilities and mobile digital television (mobile DTV). Digital broadcasting will enhance the quality of LPTV stations’ local news, weather, and public affairs programming, increasing LPTV stations’ ability to compete with already-digital full-power TV stations. This will preserve and promote the public demand for and the viability of locally-focused LPTV channels. Therefore, the Commission is right to “seek to bring the benefits of digital broadcast technology to low power television viewers as soon as possible.”<sup>14</sup>

### **III. THE BENEFITS OF TRANSITIONING LPTV TO DIGITAL FAR OUTWEIGH ANY POTENTIAL HARM**

Requiring LPTV broadcasters to transition to digital by the proposed 2012 hard deadline will greatly benefit consumers and broadcasters, and these benefits far outweigh any potential harm to LPTV broadcasters. A hard deadline is essential to create certainty for broadcasters, equipment manufacturers, and consumers, and the Commission’s proposed deadline is reasonable given the lengthy prior notice to LPTV broadcasters and the financial assistance already available.

#### **A. A Hard Deadline Is Necessary To Create Regulatory Certainty for Broadcasters, Equipment Providers, and Consumers**

A hard deadline for the transition is the most effective way for the FCC to ensure a timely transition. The Commission should follow the successful example of the full-power DTV transition, where Congress established a hard date of June 12, 2009, after years of failed

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<sup>14</sup> *FNPRM* ¶ 9.

“transition” under an indeterminate cutoff date formula.<sup>15</sup> As the NBP recognized, “setting a definitive transition date unlocked tremendous value for consumers and service providers.”<sup>16</sup> The success of the full-power transition demonstrates that, under a similar approach, the LPTV transition to digital can be accomplished to consumers’ benefit without harming licensees or disenfranchising viewers.

A hard deadline will set concrete expectations for all parties. It will enable broadcasters to efficiently plan the transitions with equipment suppliers, since a date certain will be established.<sup>17</sup> A hard deadline will also simplify consumer education and preparation. Consumers will need to be aware of only a single date by which they must be prepared. A single hard deadline would enable a unified, cost-effective, single-message national campaign. CEA stands ready to assist in any such effort to educate consumers regarding the upcoming transition.

**B. The Proposed 2012 Deadline is Reasonable and Will Not Unduly Harm LPTV Broadcasters**

A deadline during 2012 for the LPTV transition is eminently reasonable and provides sufficient time for stations to transition. Indeed, consumers in areas that rely on LPTV service have every reason to expect their stations to transition. LPTV broadcasters have long had notice regarding the coming transition, and there are already programs in place to financially assist with the transition for many of the broadcasters who may face the greatest hardship.

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<sup>15</sup> See Digital Transition and Public Safety Act of 2005, *enacted as* Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171 (establishing Feb. 17, 2009 as the date by which full-power TV stations must be transitioned). The transition was delayed until June 12, 2009 by Congressional action out of concern regarding the distribution of converter box coupons. See DTV Delay Act, Pub. L. No. 111-4 (2009).

<sup>16</sup> NBP at 78.

<sup>17</sup> The *FNPRM* indicates a willingness to consider alternative procedures for “hardship” cases for stations whose best efforts are insufficient to meet the deadline. See *FNPRM* ¶ 16.

Most consumers already are prepared for the digital LPTV transition. A phased-in digital tuner requirement for TVs imported into or shipped interstate within the U.S. began July 1, 2004, and as of March 1, 2007, *all* such TVs must include a digital tuner.<sup>18</sup> Thus, the vast majority of TV sets sold over the past six years are capable of digital reception. Additionally, a large majority (more than 85%) of households receive their video programming through a cable or other multichannel video programming distributor,<sup>19</sup> and will therefore be unaffected by a change in LPTV broadcasting technology. For over-the-air consumers with analog TVs (approximately 14.4 million households as of 2006<sup>20</sup>), evidence suggests that most have already added digital reception capability. For example, by the end of NTIA's digital converter coupon program, over 34.7 million converter boxes had been purchased by consumers – more than two for every over-the-air-only household.<sup>21</sup> These converter boxes support digital LPTV channels as well as full-power digital stations, meaning the tens of millions of consumers with converter boxes are already prepared for the transition.<sup>22</sup>

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<sup>18</sup> 47 C.F.R. § 15.117(i).

<sup>19</sup> *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 06-189, Thirteenth Annual Report, 24 FCC Rcd 542, 549 ¶ 8 (2009) (“As of June 2006 ... almost 87 percent of TV households, subscribe to an MVPD service.”) (“*Thirteenth Video Competition Report*”).

<sup>20</sup> *Id.* (14.4 million calculated by subtracting the 95.8 million TV households which subscribe to MVPD service from the 110.2 million total TV households).

<sup>21</sup> National Telecommunications and Information Administration, TV Converter Box Coupon Program Final Status Update (Dec. 9, 2009), *available at* [http://www.ntia.doc.gov/dtvcoupon/reports/NTIA\\_DTVWeekly\\_120909.pdf](http://www.ntia.doc.gov/dtvcoupon/reports/NTIA_DTVWeekly_120909.pdf). We note that some MVPD households may have also purchased converters. Additionally, some estimates put the number TV households at 15.5 million. *See Thirteenth Video Competition Report*, 24 FCC Rcd at 549 ¶ 16 (citing Nielsen numbers).

<sup>22</sup> As with the DTV transition, consumers may need to have their converter box complete a channel re-scan.

LPTV broadcasters have long known that a digital transition would eventually be required. As noted above, the FCC determined in the *2004 Digital LPTV Transition Order* that such a transition was required by the Communications Act. While that Order set no specific timeline for transition, one of its purposes was to establish a process for LPTV broadcasters who wish to transition to digital operations. According to the *FNPRM*, through that process the Media Bureau has granted 2,621 construction permits for low power television stations to flash cut to digital (including digital “displacement” relief applications) and has granted 1,630 construction permits for digital companion channels.<sup>23</sup>

In this environment, and because of the benefits of digital service, many remaining analog LPTV broadcasters have already begun preparations for the transition. According to the *FNPRM*, 56% of the existing 7,536 LPTV stations have already taken steps to transition, with a rapid increase in such actions over the past year.<sup>24</sup> Providing approximately three additional years of transition time for LPTV broadcasters is very reasonable.

For the most vulnerable LPTV stations, Congress created, and NTIA has implemented, the Rural LPTV Upgrade Program to reimburse eligible LPTV broadcasters for transition costs.<sup>25</sup> This program offers reimbursements of \$6,000 to refit analog equipment for digital transmission, or up to \$20,000 to replace analog equipment with digital equipment.<sup>26</sup> This program will help to significantly reduce the financial cost of the transition for the rural, small

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<sup>23</sup> *FNPRM* ¶ 5.

<sup>24</sup> *Id.*

<sup>25</sup> National Telecommunications and Information Administration, Low Power Television and Translator Digital Upgrade Program, <http://www.ntia.doc.gov/lptv/index.html> (last visited Nov. 29, 2010).

<sup>26</sup> *Id.*

and geographically isolated stations which the *FNPRM* notes are those most likely in need of assistance.<sup>27</sup>

#### **IV. THE COMMISSION'S PROPOSAL TO ORDERLY TRANSITION OUT-OF-CORE 700 MHZ LPTV STATIONS BY END OF 2011 IS IN THE PUBLIC INTEREST**

In the *FNPRM*, the Commission has proposed to transition the few LPTV stations which still operate within the “out-of-core” 700 MHz bands into the core frequencies by December 31, 2011.<sup>28</sup> This transition will enable commercial wireless service providers to deploy crucial wireless broadband facilities and also will enable public safety to develop its critical communications networks. The proposed deadline is also reasonable. LPTV operators have long been on notice that they would eventually be required to relocate to in-core channels. The FCC only permitted temporary operation of LPTV operators in the 700 MHz band on a secondary basis in order to afford LPTV broadcasters more time to transition to digital prior to initiation of wireless broadband operations.<sup>29</sup> It has now been several years since the FCC permitted that temporary operation, and wireless carriers have made significant progress in building out 700 MHz bands. Thus, the need for the spectrum to be cleared is increasingly important. The Commission should adopt its proposal to finally clear the out-of-core frequencies.

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<sup>27</sup> *FNPRM* ¶ 9.

<sup>28</sup> *FNPRM* ¶ 22.

<sup>29</sup> See *2004 Digital LPTV Order*, 19 FCC Rcd at 19354 ¶ 70 (“We conclude that making channels 52-69 available for LPTV and TV translator station operations in the manner described below will balance the concerns of the low power television and 700 MHz wireless and public safety communities. ... Our goals in this proceeding are to facilitate the transition of LPTV, TV translator, and Class A stations to digital service and to do so in a way that minimizes disruption of new and existing services in the 700 MHz bands.”)

**V. CONCLUSION**

For the reasons discussed above, the Commission should adopt the proposed 2012 hard deadline for the LPTV transition to digital, and should likewise adopt the proposal to orderly transition out-of-core 700 MHz LPTV stations by December 31, 2011. Both proposals will serve the Commission's broadband and other policy goals as well as the public interest.

Respectfully submitted,

**CONSUMER ELECTRONICS ASSOCIATION**

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