



Federal Communications Commission
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Small Entity Compliance Guide

DTV Transition Proceedings

DTV Table Proceeding – Guide Covers Two Proceedings

- **Seventh Report and Order and Eighth Further Notice of Proposed Rule Making, FCC 07-138, MB Docket No. 87-268**
- **Reconsideration of the Seventh Report and Order and Eighth Report and Order, FCC 08-72, MB Docket No. 87-268**

DTV Periodic Review

- **Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television, FCC 07-228, MB Docket No. 07-91**

DTV Consumer Education Initiative – Guide Covers Two Proceedings

- **Report and Order, FCC 08-56, MB Docket No. 07-148**
- **Order on Reconsideration and Further Notice of Proposed Rule Making, FCC 08-119, MB Docket No. 07-148**

DTV Viewability Proceeding

- **Third Report and Order and Third Further Notice of Proposed Rule Making, FCC 07-170, CS Docket No. 98-120**

DBS Carriage Proceeding

- **Second Report and Order, Memorandum Opinion and Order, and Second Further Notice of Proposed Rule Making, FCC 08-86, CS Docket No. 00-96**

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities — small businesses, small organizations (non-profits), and small governmental jurisdictions — comply with the above referenced FCC rules. This Guide is not intended to replace the rules and final authority rests solely with the rules. While the Commission has attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may not apply in a particular situation based

upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be made based on application of the statute and regulations. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may revise this Guide without public notice to clarify or update the contents. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)

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INTRODUCTION TO KEY DTV TRANSITION-RELATED PROCEEDINGS

Objective(s) of DTV Transition

- Allow TV broadcasters to offer programming with better picture and sound quality and offer more programming choices.
- Reallocate freed-up 700 MHz band spectrum for public safety and new advanced wireless services.

Key Statutory Mandates

- By law, after February 17, 2009, full-power television broadcast stations must transmit only digital signals and may no longer transmit analog signals. *See* 47 U.S.C. § 309(j)(14)(A).
- By law, after February 17, 2009, full-power television broadcast stations must operate only inside the core TV spectrum, *i.e.*, TV channels 2-51, and may no longer operate on TV channels 52-69 (698-806 MHz). *See* 47 U.S.C. § 337(e)(1).

Definitions

- **Core TV spectrum** refers to TV channels 2-51, the channels on which full-power TV broadcast stations must operate after the transition date.
- **Pre-transition DTV channel** refers to a TV broadcast station's current digital channel.
- **Post-transition channel** refers to the digital channel a TV broadcast station will use after the February 17, 2009 transition date.
- **700 MHz band** refers to TV channels 52-69 (698-806 MHz) which are being vacated by TV broadcasters to allow for public safety and new advanced wireless services.

Forms Affected

- 301 — <http://www.fcc.gov/mb/cdbs.html> or http://fjallfoss.fcc.gov/prod/cdbs/forms/prod/cdbs_ef.htm
- 302-DTV — <http://www.fcc.gov/mb/cdbs.html> or http://fjallfoss.fcc.gov/prod/cdbs/forms/prod/cdbs_ef.htm
- 337 — <http://www.fcc.gov/mb/cdbs.html> or http://fjallfoss.fcc.gov/prod/cdbs/forms/prod/cdbs_ef.htm
- 340 — <http://www.fcc.gov/mb/cdbs.html> or http://fjallfoss.fcc.gov/prod/cdbs/forms/prod/cdbs_ef.htm
- 387 — <http://www.fcc.gov/mb/cdbs.html> or http://fjallfoss.fcc.gov/prod/cdbs/forms/prod/cdbs_ef.htm
- 388 — <http://www.fcc.gov/Forms/Form388/388.pdf>
- CDBS Informal Application Filing Form — <http://www.fcc.gov/mb/cdbs.html> or http://fjallfoss.fcc.gov/prod/cdbs/forms/prod/cdbs_ef.htm

Key DTV Transition-Related Proceedings in Fiscal Year 2008

1. DTV Table Proceeding, MB Docket No. 87-268
 - a. Seventh and Eighth Report and Order
 - b. Memorandum Opinion and Order on Reconsideration
2. Third DTV Periodic Review Proceeding, MB Docket No. 07-91
3. DTV Consumer Education Initiative ("CEI"), MB Docket No. 07-148
 - a. Report and Order
 - b. Order on Reconsideration Sua Sponte
4. Cable Carriage Third Report and Order and Third Further Notice of Proposed Rulemaking ("Viewability and Material Degradation"), MB Docket No. 98-120
5. Satellite (DBS) Carriage Second Report and Order and Second Further Notice of Proposed Rulemaking, MB Docket No. 00-96F

DTV Table Proceeding: Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, MB Docket No. 87-268

Decision Document(s)

- **Seventh Report and Order, FCC 07-138** – available on the Commission’s website at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-138A1.pdf.
- **Memorandum Opinion and Order on Reconsideration of the Seventh Report and Order and Eighth Report and Order, FCC 08-72** – available on the Commission’s website at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-72A1.pdf.

Key Objective(s) of Proceeding

- Establish the Post-Transition DTV Table of Allotments (“DTV Table”) to provide full-power TV broadcast stations with channels for operations inside the core TV spectrum after the February 17, 2009 transition date.

Key Compliance Requirement(s)

- **Post-Transition DTV Table of Allotments (“DTV Table”).** By rule, the Commission established the channel allotments that full-power TV broadcast stations will use after the February 17, 2009 transition date. *See* 47 C.F.R. § 73.622(i).
- **DTV Table Information.** The details of each station’s channel assignment, including the specific technical facilities (*e.g.*, effective radiated power (“ERP”), antenna height above average terrain (“HAAT”), antenna radiation pattern, and geographic coordinates) at which stations may operate and information on service area and population coverage, were set forth in Appendix B to the Seventh Report and Order, commonly referred to as “DTV Table Appendix B.” The DTV Table Appendix B was subsequently amended by the Memorandum Opinion and Order on Reconsideration of the Seventh Report and Order and Eighth Report and Order and detailed in that document’s Appendix B. This revised version of the DTV Table Appendix B is also available on the Commission’s website at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-72A2.pdf.

Entities Directly Affected by the Rule

- Television Broadcasting
- Class A TV, Low Power TV, TV Translator Stations

Third DTV Periodic Review Proceeding: Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, MB Docket No. 07-91

Decision Document(s)

- **Third DTV Periodic Report and Order, FCC 07-228** – available on the Commission's website at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-228A1.pdf.

Key Objective(s) of Proceeding

- Adopt rules to ensure that, by the February 17, 2009 transition date, all full-power TV broadcast stations:
 - (1) meet their statutory obligation to stop broadcasting in analog; and
 - (2) complete construction of, and begin operations on, their final, full-authorized post-transition (DTV) facility.

Key Compliance Requirement(s)

- To accomplish the key objectives (above), the Commission took the following actions in the Third DTV Periodic Report and Order:
 - (1) Required all stations to report on their transition status;
 - (2) Established construction permit ("CP") filing requirements;
 - (3) Set post-transition construction deadlines;
 - (4) Offered provisions for regulatory relief upon the appropriate demonstration;
 - (5) Adopted a 0.5 percent new interference standard for post-transition operations; and
 - (6) Announced an upcoming opportunity for stations to seek expanded facilities.

Reporting Requirement on Stations' DTV Transition Status (FCC Form 387)

- Stations must provide the specific details of their current transition status, any additional steps necessary for digital-only operation upon expiration of the February 17, 2009 transition deadline, and a timeline for making those steps.
- Stations must use FCC Form 387 to notify the Commission about the construction deadlines for which they qualify. For example, stations claiming February 17, 2009 as their construction deadline because of a "unique technical challenge" (as defined in the Third DTV Periodic Report and Order) must specify such status in their Form 387.
- Stations whose license or CP for post-transition facilities does not match those facilities defined for them in the post-transition DTV Table Appendix B must also use the Form 387 to notify the Commission of the discrepancy.

Filing Deadlines for DTV Transition Status Reports (FCC Form 387)

- **February 19, 2008** was the mandatory filing deadline for all full-power TV stations to file their initial DTV Transition Status Reports using FCC Form 387.
- **Stations must update these forms** whenever there is a change to their transition status.
 - Whenever the information furnished in their form is no longer substantially accurate and complete in all significant respects, the station must file an updated form as promptly as possible and in any event **within 30 days** to furnish such additional or corrected information as is appropriate.
 - Examples of a significant change would include a change in a station's (1) transition plans, (2) construction or operational status or (3) existing service (e.g., reduction or termination of analog or pre-transition digital service).
 - Stations must continue to file updates until construction of fully authorized post-transition facilities is complete and the station has begun operating its full post-transition DTV Table Appendix B facility.

- **In addition, October 20, 2008** is a mandatory filing deadline for stations to file an update to their DTV Transition Status Reports using FCC Form 387 if they have not by that date reported the completion of their transition, *i.e.*, that they have begun operating their full-authorized facility as provided in the post-transition DTV Table Appendix B.

Electronic Filing Required for FCC Form 387

- FCC Form 387 must be filed electronically using the Commission's Consolidated Database System ("CDBS") Electronic Filing System via the Internet from the Media Bureau's Web site at: <http://www.fcc.gov/mb/cdbs.html> or http://fjallfoss.fcc.gov/prod/cdbs/forms/prod/cdbs_ef.htm.

Construction Permit ("CP") Filing Requirements

- **FCC Form 301** is the form for commercial stations to file applications to construct or modify their post-transition (DTV Table Appendix B) facilities.
- **FCC Form 340** is the form for noncommercial educational (NCE) stations to file applications to construct or modify their post-transition (DTV Table Appendix B) facilities.
- **FCC Form 302-DTV** is the form for all DTV stations to file an application for a license to cover when the station has completed construction and begun operating its DTV facility pursuant to program test authority.

Required Filers for Construction Permit ("CP") Applications (FCC Forms 301 or 340)

- Stations that need to **construct** their authorized post-transition facilities;
- Stations that need to **modify** their existing facilities to comply with the post-transition DTV Table Appendix B facilities must file a construction permit ("CP") application.
- Each station must have, or have filed for, a license for its authorized post-transition facilities in order to continue broadcasting after the transition date.

Filing Deadlines for CP Applications (FCC Forms 301 or 340)

- **March 17, 2008** was the filing deadline for stations with a construction deadline of August 18, 2008 (see below section on construction deadlines).
- **June 19, 2008** is the filing deadline for stations with a construction deadline of February 17, 2009 (see below section on construction deadlines).

Electronic Filing Required

- FCC Forms 301, 302-DTV, and 340 must be filed electronically using the Commission's Consolidated Database System ("CDBS") Electronic Filing System via the Internet from the Media Bureau's Web site at: <http://www.fcc.gov/mb/cdbs.html> or http://fjallfoss.fcc.gov/prod/cdbs/forms/prod/cdbs_ef.htm.

Post-Transition Construction Requirements

- Full-power TV broadcast stations must construct their full, authorized post-transition (DTV) facility (as defined in the post-transition DTV Table Appendix B) by their post-transition construction deadline (see below).
- Stations will not be required to construct a digital facility on their pre-transition DTV channel and will be permitted to forego further construction to the extent such a facility has been partially built, provided they are building a DTV facility based on a new channel allotment in the post-transition DTV Table, *i.e.*, stations that will be returning to their analog channel or moving to a new digital channel for post-transition operations.

Post-Transition Construction Deadlines

- **May 18, 2008** was the construction deadline for stations that will use their pre-transition DTV channel for post-transition operations and which already have a construction permit that matches their post-transition (DTV Table Appendix B) facility. *See* 47 C.F.R. § 73.624(d)(1)(v).
- **August 18, 2008** is the construction deadline for stations that will use their pre-transition DTV channel for post-transition operations, but do not have a license or construction permit, as of December 31, 2007, that matches their post-transition (DTV Table Appendix B) facility. *See* 47 C.F.R. § 73.624(d)(1)(vi).
- **February 17, 2009** is the construction deadline for stations building digital facilities on a channel in the post-transition DTV Table other than their pre-transition digital channel, *i.e.*, stations that will be returning to their analog channel or moving to a new digital channel for post-transition operations. *See* 47 C.F.R. § 73.624(d)(1)(vii).
- **February 17, 2009** is also the construction deadline for stations demonstrating that a unique technical challenge, such as the need to reposition a side-mounted antenna, prevents them from completing construction of their final DTV facilities any earlier. *See* 47 C.F.R. § 73.624(d)(1)(vii).

Provisions for Regulatory Relief

- The Commission offers stations the following opportunities for regulatory flexibility in meeting their post-transition construction deadlines, provided they satisfy a viewer notification requirement:
 - (1) Extension Requests/Tolling Events. Stations with a construction deadline on or before February 17, 2009 may request more time to complete their digital facility under a stricter standard, while stations with a construction deadline on or after February 18, 2009 may obtain more time to complete their digital facility only upon demonstration of a tolling event. (*See* discussion below.)
 - (2) Phased Transition Provisions. Stations may request Special Temporary Authority (“STA”) for one of two provisions for a “phased transition” that would afford qualifying stations regulatory relief in meeting their post-transition construction deadlines without disappointing viewer expectations after the transition date (*see* discussion below); and
 - (3) Temporary Service Disruptions / Permanent Service Reductions and Terminations. Stations may seek to reduce or terminate analog TV or pre-transition DTV service (*i.e.*, service before the transition date), if doing so would facilitate their transition (*see* discussion below).

Extension Requests

- Stations with a construction deadline on or before February 17, 2009 may continue to request more time to complete their digital facility using FCC Form 337, but must do so under a stricter standard. *See* 47 C.F.R. § 73.624(d).

Stricter Standard

- Absent extraordinary circumstances, the Commission will consider requests for an extension of more time to construct a DTV facility only under the following circumstances. *See* 47 C.F.R. § 73.624(d)(3)(ii).
 - (1) The station is not able to construct and place in operation a facility necessary for transmitting digital television, such as a tower, because of delays in obtaining zoning or FAA approvals, or similar constraints; *see* 47 C.F.R. § 73.624(d)(3)(ii)(A); or
 - (2) The station is currently the subject of a bankruptcy or receivership proceeding or is experiencing severe financial hardship as defined by negative cash flow for the past three years; *see* 47 C.F.R. § 73.624(d)(3)(ii)(B).
- **FCC Form 337** is the form for stations to use to request an extension of time to construct DTV facilities. This form must be filed electronically using the CDBS Electronic Filing System via the Internet from the Media Bureau’s Web site at: <http://www.fcc.gov/mb/cdbs.html> or http://fjallfoss.fcc.gov/prod/cdbs/forms/prod/cdbs_ef.htm.

- **Requests for extension must be received at least 60 days prior to the deadline** for which the extension is requested to ensure review prior to the deadline. *See* 47 C.F.R. § 73.624(d)(3)(v).

Tolling Event Notifications

- Stations with a construction deadline on or after February 18, 2009 may obtain more time to complete their digital facility only upon demonstration of a tolling event. *See* 47 C.F.R. § 73.3598(b).
- A tolling event refers to the following circumstances:
 - (1) Construction is prevented due to an act of God, defined in terms of natural disasters (*e.g.*, floods, tornados, hurricanes, or earthquakes); *see* 47 C.F.R. § 73.3598(b)(i); or
 - (2) The grant of the construction permit is the subject of administrative or judicial review (*i.e.*, petitions for reconsideration and applications for review of the grant of a construction permit pending before the Commission and any judicial appeal of any Commission action thereon), or construction is delayed by any cause of action pending before any court of competent jurisdiction relating to any necessary local, state or federal requirement for the construction or operation of the station, including any zoning or environmental requirement; *see* 47 C.F.R. § 73.3598(b)(ii); or
 - (3) A request for international coordination, with respect to an original construction permit for a new DTV station, has been sent to Canada or Mexico on behalf of the station and no response from the country affected has been received, or the licensee or permittee is challenging the response from Canada or Mexico on the grounds that the facility as approved would not permit the station to serve the population that is both approved by the Commission and served by the station’s analog TV facility; *see* 47 C.F.R. § 73.3598(b)(iii).
- **CDBS Informal Application filing form** is the form for stations to use to notify the Commission of a tolling event. This form can only be filed electronically using the CDBS Electronic Filing System via the Internet from the Media Bureau’s Web site at: <http://www.fcc.gov/mb/cdbs.html> or http://fjallfoss.fcc.gov/prod/cdbs/forms/prod/cdbs_ef.htm.

Phased Transition Provisions

- Stations may request Special Temporary Authority (“STA”) for one of two provisions for a “phased transition” that would afford qualifying stations regulatory relief in meeting their post-transition construction deadlines, provided they comply with the viewer notification requirement (*see* below).

STA for Phased Transition and Continued Interim Operations

- Stations that are moving to a different DTV channel for post-transition operations may request STA approval to temporarily remain on their pre-transition DTV channel while they complete construction of their final digital facilities, provided:
 - (1) They build facilities that serve at least the same population that receives their current analog TV and DTV service so that over-the-air viewers will not lose TV service; and
 - (2) They do not cause impermissible interference, *i.e.*, more than 0.5 percent new interference, to other stations or prevent other stations from making their transition.
- **Viewer Notification Required:** Beginning at least 30 days prior to the planned service reduction or termination, stations that will not be serving at least the same population that receives their current analog TV and DTV service on February 18, 2009 must notify viewers on their analog channel about the station’s planned delay in construction and operation of post-transition (DTV) service. Such notifications must occur every day on-air at least four times a day including at least once in primetime for the 30-days period. *See* discussion on Viewer Notifications, below.
- Stations must apply for such approval no later than August 17, 2008 using the CDBS Informal Application Filing Form.

- Stations that remain on their pre-transition digital channel may not apply for expanded post-transition facilities, until they complete construction and commence operation on their post-transition channels.
- Stations approved for this relief may remain on their pre-transition digital channel for no longer than one year after the transition date and must begin operations on their final, full, authorized post-transition (digital) channels no later than February 18, 2010.

STA for Phased Transition / Build-Out

- Stations may request STA approval to operate their post-transition facilities at less than their full, authorized facilities, provided:
 - (1) They demonstrate a unique technical challenge (as defined in the Third DTV Periodic Report and Order) and they can serve at least 85 percent of the same population that receives their current analog TV and DTV service; or
 - (2) A significant technical impediment to the construction of their full, authorized facilities that would not otherwise qualify for an extension of time to construct facilities under the new, stricter standard adopted herein and they serve at least 100 percent of the same population that receives their current analog TV and DTV service so that over-the-air viewers will not lose TV service.
- Stations must demonstrate that they will not cause impermissible interference, *i.e.*, more than 0.5 percent new interference, to other stations or prevent other stations from making their transition.
- **Viewer Notification Required:** Beginning at least 30 days prior to the station's planned service reduction or termination, stations that will not be serving at least the same population that receives their current analog TV and DTV service on February 18, 2009 must notify viewers on their analog channel about the station's planned delay in construction and operation of post-transition (DTV) service. Such notifications must occur every day on-air at least four times a day including at least once in primetime for the 30-days prior to the station's termination of full, authorized analog service. *See discussion on Viewer Notifications, below.*
- Stations must apply for such approval as early as possible using the CDBS Informal Application Filing Form.
- Stations that seek relief under this provision may only apply for expanded post-transition facilities if they will complete construction and commence operation on those facilities no later than August 18, 2009.
- Stations approved for this relief may remain at such intermediate facilities for no longer than six months after the transition date and must begin operations on their final, full, authorized post-transition (digital) channels no later than August 18, 2009.

Phased Transition for NCE and Small Market Stations

- The Commission may consider on a case-by-case basis allowing noncommercial educational ("NCE") and Small Market Stations (*i.e.*, stations which are not a top-four network in markets 1-100) a reduced service requirement if their circumstances warrant this additional flexibility.

Service Disruptions Necessitated by Construction of Post-Transition Facilities

The Commission will permit four kinds of service disruptions to facilitate construction of final DTV facilities:

- (1) Temporary service disruptions (generally no more than 30 days);
- (2) Permanent or extended (*i.e.*, more than 30 days) service reduction or termination of analog service before the transition date;
- (3) Permanent or extended (*i.e.*, more than 30 days) service reduction or termination of pre-transition digital service before the transition date; and
- (4) Permanent service reduction or termination of analog or pre-transition digital service 90 days before the transition date.

Temporary Service Disruptions

- Stations may temporarily reduce or cease service on their pre-transition analog or digital channel for a period of 30 days or less, upon notification to the Commission and without prior approval, when necessary to complete construction of their post-transition digital facility. *See* 47 C.F.R. § 73.1615.
- Such notifications must be filed electronically using the CDBS Informal Application Filing Form.
- The notifications should indicate clearly that they are being filed pursuant to Section 73.1615 and should indicate whether the request is to temporarily reduce or cease analog or digital service.
- Stations must obtain Commission approval and comply with the viewer notification requirement, if the service reduction or termination is longer than 30 days.

Permanent Analog Service Reduction and Termination

- Stations may with Commission approval permanently reduce or terminate their analog service before the transition date, provided they satisfy the following two requirements:
 - (1) The station demonstrates that its analog service reduction or termination is directly related to the construction and operation of its, or another station's, post-transition facilities; and
 - (2) The station notifies viewers on its analog channel about the planned service reduction or termination (*see* discussion below).
- **Viewer Notification Required:** Beginning at least 60 days prior to the station's reduction or termination of analog service, stations must notify viewers on their analog channel about the planned service reduction or termination and inform them about how they can continue to receive the station. Such notifications must occur every day on-air at least four times a day including at least once in primetime for the 60-days prior to the station's termination of full, authorized analog service. *See* discussion on Viewer Notifications, below.
- Stations must file requests for such approval as a request for STA using the CDBS Informal Application Filing Form at least 90 days in advance of their planned service reduction or termination, and must indicate whether the request is either a service reduction or termination.

Permanent Pre-Transition Digital Service Reduction and Termination

- Stations that will be returning to their analog channel or moving to a new channel for post-transition operations may with Commission approval permanently reduce or terminate their existing digital service on their pre-transition DTV channel prior to the transition date, provided they satisfy the following two requirements:
 - (1) The station demonstrates that its analog service reduction or termination is directly related to the construction and operation of its, or another station's, post-transition facilities; and
 - (2) The station notifies viewers on its pre-transition channel(s) (both analog and digital) about the planned service reduction or termination (*see* discussion below).
- **Viewer Notification Required:** Beginning at least 30 days prior to the station's reduction or termination of service, stations must notify viewers about the planned service reduction or termination and inform them about how they can continue to receive the station. Such notifications must occur every day on-air at least four times a day including at least once in primetime for the 30-days prior to the station's termination of full, authorized analog service. *See* discussion on Viewer Notifications, below.
- Stations must file requests for such approval as a request for STA using the CDBS Informal Application Filing Form at least 60 days in advance of their planned service reduction or termination, and must indicate whether the request is either a service reduction or termination.
- **Early Post-Transition Operations:** Stations that will reduce or terminate their pre-transition digital service are expected to commence early post-transition operations if possible. Stations may with Commission approval transition early if the following requirements are met:

- (1) The early transitioning station must not cause impermissible interference, *i.e.*, more than 0.5 percent new interference, to another station; and
- (2) The early transitioning station must continue to serve its existing viewers for the remainder of the transition and commence its full, authorized post-transition operations on February 18, 2009.

Service Reductions or Terminations 90 Days Before the Transition Date

- Beginning on or after November 19, 2008, stations may permanently reduce or terminate their analog or pre-transition digital service, upon notification to the Commission and without prior approval.
- Stations must file their notifications 30 days prior to the planned permanent service reduction or termination and must do so electronically using the CDBS Informal Application Filing Form.
- **Viewer Notification Required:** Beginning at least 30 days prior to the station's reduction or termination of service, stations must notify viewers on their pre-transition channel(s) (both analog and digital) about the planned service reduction or termination and inform them about how they can continue to receive the station. Such notifications must occur every day on-air at least four times a day including at least once in primetime for the 30-days prior to the station's termination of full, authorized analog service. *See* discussion on Viewer Notification, below.

Viewer Notification Requirements

- Stations must comply with a viewer notification requirement (*i.e.*, stations must notify viewers about their planned service reduction or termination) if:
 - (1) The station will permanently reduce or terminate analog or pre-transition digital service before the transition date; or
 - (2) The station will not serve at least the same population that receives their current analog TV and DTV service after the transition date.
- Viewer notifications must occur every day on-air at least four times a day including at least once in primetime for the applicable period prior to the station's planned service reduction or termination.
 - Viewer notifications are required to commence at least 30 days prior to the service disruption except that notifications with respect to reduction or termination of analog service prior to February 17, 2009 must commence at least 60 days in advance.
- These notifications must include the following (as applicable):
 - (1) The station's call sign and community of license;
 - (2) The fact that the station must delay the construction and operation of its post-transition (DTV) service or the fact that the station is planning to or has reduced or terminated its analog or digital operations before the transition date;
 - (3) Information about the nature, scope, and anticipated duration of the station's post-transition service limitations;
 - (4) What viewers can do to continue to receive the station, *i.e.*, how and when the station's digital signal can be received;
 - (5) Information about the availability of digital-to-analog converter boxes in their service area; and
 - (6) The street address, e-mail address (if available), and phone number of the station where viewers may register comments or request information.
- These viewer notifications are in addition to, and separate from, the notification requirements adopted in the DTV Consumer Education Initiative, MB Docket No. 07-148.

Post-Transition interference standard

- The Commission adopted the following standards for evaluating post-transition interference:
 - Stations are permitted to cause another station no more than 0.5 percent new interference in addition to that in the DTV Table Appendix B.

- Applications to construct post-transition facilities will be evaluated using an engineering criteria based requirement (limiting the predicted interference that a station may cause to a protected station's service population) instead of using a geographic spacing requirement.
- Requests for new DTV allotments will continue to be evaluated using the DTV-to-DTV geographic spacing requirements contained in Section 73.623(d).

Expansion Opportunity

The Commission anticipates lifting the freeze on the filing of maximization applications in August, 2008, depending upon completion of the processing of stations' applications to build their post-transition facilities.

Entities Directly Affected by the Rule

- Television Broadcasting
- Class A TV, Low Power TV, TV Translator Stations

DTV • CONSUMER EDUCATION INITIATIVE: MB DOCKET NO. 07-148

TITLE: DTV CONSUMER EDUCATION INITIATIVE, MB DOCKET NO. 07-148, REPORT AND ORDER, FCC 08-56 (REL. MAR. 3, 2008; FR PUBLICATION: MAR. 24, 2008).

TITLE: DTV CONSUMER EDUCATION INITIATIVE, MB DOCKET NO. 07-148, ORDER ON RECONSIDERATION AND FURTHER NOTICE OF PROPOSED RULEMAKING, FCC 08-119 (REL. APR. 23, 2008).

Effective Dates: Rule Sections 27.20, 73.674, 73.3526(e)(11)(iv) and 73.3527(e)(13) are effective March 31, 2008; Section 76.1630 is effective April 30, 2008; and Sections 15.124 and 54.418, as revised, are effective May 30, 2008.

Copies available at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-56A1.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-56A1.doc

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-119A1.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-119A1.doc

Objectives of the Proceeding

Because the many benefits of the digital transition could be severely limited by insufficient consumer awareness, the Commission issued this *Report and Order* adopting rules to facilitate the DTV Consumer Education Initiative. This initiative seeks to further educate consumers about the digital television transition; to engage industry in support of that transition; and, in doing so, to adequately prepare the American public for the full-power digital transition. The Commission later issued an *Order on Reconsideration*, in which the Commission reconsidered this *Report and Order* in part, *sua sponte*. The final rules and requirements are reflected below.

Regulations and Policies the Commission Has Modified

The *Report and Order*, adopted on February 19, 2008, and the *Order on Reconsideration*, adopted on March 23, 2008, require certain entities within the industry to participate in a coordinated, nationwide consumer outreach campaign to promote awareness of the transition to digital television service. These items impose the following requirements.

First, broadcasters must provide on-air information to their viewers about the DTV transition, by compliance with one of three alternative sets of rules, and must report those efforts to the Commission and the public.

Second, multichannel video programming distributors (“MVPDs”) must provide monthly notices about the DTV transition.

Third, manufacturers of television receivers and related devices must provide notice to consumers of the transition’s impact on that equipment.

Fourth, DTV.gov Partners must provide the Commission with regular updates on their consumer education efforts.

Fifth, companies participating in the Low Income Federal Universal Service Program must provide notice of the transition to their low income customers and potential customers.

Sixth, the winners of the 700 MHz spectrum auction must report their consumer education efforts.

Finally, the Commission offers its assistance to the National Telecommunications and Information Agency (“NTIA”) in policing and enforcing the requirements of the digital converter box retail program.

Broadcaster Education and Reporting

The Commission adopts rules that give both commercial and noncommercial broadcasters a choice of education and reporting requirements. Broadcasters must comply with one of three alternative sets of rules in providing such information to their viewers and must report these consumer education and outreach efforts to the Commission and the public. For most broadcasters, this requirement will expire on March 31, 2009. These DTV education requirements will continue for any station that has requested or been granted an extension to serve less than its full authorized service area after March 31, 2009. Any station that does not reach all of its pre-transition viewers on February 18, 2009, will be required to continue its education efforts until its request for extension has been withdrawn or denied, or until a granted extension has expired.

Option One - Consumer Education Requirements

Broadcasters who choose to comply with Option One (47 C.F.R. § 73.674(c)) will be required to regularly air a mix of PSAs and crawls, with increasing frequency as the full-power transition approaches, that explain the various important issues of the full-power transition and how viewers can find more information. These requirements will expire for most broadcasters on March 31, 2009.

Note: For the purposes of these education requirements, each broadcast day can be broken into four quarters; 6:01 am to 12:00 pm, 12:01 pm to 6:00 pm, 6:01 pm to 12:00 am, and 12:01 am to 6:00 am.

(1) As of March 31, 2008, a station must run one transition PSA and run one transition crawl in every quarter of every day, in addition to, and not in lieu of, PSAs on other issues of importance to their local communities. This consumer education requirement applies separately to a station’s analog channel and its primary digital stream.

(2) Beginning April 1, 2008, the above requirement increases to two transition PSAs and two transition crawls in every quarter of every day.

(3) Beginning October 1, 2008, the requirement increases to three transition PSAs and three transition crawls in every quarter of every day.

(4) Every day, at least one PSA and one crawl must run during Primetime hours (between 8:00 pm and 11:00 pm in the Eastern and Pacific Time Zones, and between 7:00 pm and 10:00 pm in the Mountain and Central Time Zones.)

(5) All transition PSAs must be captioned.

(6) Required transition crawls must run during programming for no less than 60 consecutive seconds across the bottom or top of the viewing area and be provided in the same language as a majority of the programming carried by the station. The content of the crawl is largely discretionary. For example, the crawl may, at the broadcaster’s discretion, provide information such as contact information for the DTV Transition Coalition. However, the crawl must convey the following information:

- a. After February 17, 2009, a television receiver with only an analog broadcast tuner will require a converter box to receive full power over-the-air broadcasts with an antenna

because of the Nation's transition to digital broadcasting. Analog-only TVs should continue to work as before to receive low power, Class A or translator television stations and with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products.

- b. More information is available by phone and online, and [provide appropriate contact information, including means of contacting the station or the network].
- (7) Required PSAs must be at least 15 seconds. Each PSA must provide, at a minimum, the same information as required for crawls, above. The Commission does not mandate the form of the PSA other than to require that, over the course of a broadcaster's education campaign, they give more detail about the following subjects at least once a week:
- a. what a viewer needs to do to continue watching the station, whether they are an OTA viewer or receive broadcast signals via their MVPD, and
 - b. where appropriate, specific details about the station's transition: for example, shifts in service area, channel numbering changes, the addition of multicast and/or High Definition channels, timing, etc.
- (8) On-air outreach must not contain false or misleading information.
- (9) Broadcasters are not limited to the requirements above. For example, certain stations may find that additional PSAs in languages other than those in which a majority of their programming is presented would be beneficial to their viewers; for other stations, multilingual announcements may not be needed. Stations are free to use PSAs provided by outside sources such as NAB or networks, so long as their overall campaign touches on all the elements relevant to their particular transition.

Option Two - Consumer Education Requirements.

Broadcasters electing to comply with the Consumer Education Initiative requirements by choosing this option (47 C.F.R. § 73.674(d)) must comply with the obligations set forth below, which will also expire for most broadcasters on March 31, 2009. This requirement also applies separately to a station's analog channel and its primary digital stream.

- (1) A broadcaster must air an average of sixteen transition PSAs per week, and an average of sixteen transition-related crawls, snipes, and/or tickers per week, over each quarter through the transition period between 5:00 am and 1:00 am. No PSAs or crawls, snipes, and/or tickers aired between the hours of 1:00 am and 5:00 am will qualify as compliant for the purposes of these education requirements.
- (2) Over the course of each calendar quarter, one fourth of all mandatory PSAs and crawls, snipes, and/or tickers must air between 6:00 pm and 11:35 pm, Eastern and Pacific Time, and between 5:00 pm and 10:35 pm, Central and Mountain Time.
- (3) Required PSAs must be at least 30 seconds in length. A broadcaster may, however, choose to air two PSAs of no less than 15 seconds in length in place of a single PSA of at least 30 seconds in length.
- (4) All transition PSAs must be captioned.
- (5) Transition PSAs are in addition to, not in lieu of, of PSAs on other issues of importance to their local communities, and stations are free to use PSAs produced in-house or provided by outside sources such as NAB or the networks.
- (6) Stations will also air at least one 30-minute informational program on the digital television transition between 8:00 am – 11:35 pm on at least one day prior to February 17, 2009.

(7) Furthermore, beginning on November 10, 2008, all stations must begin a 100-Day Countdown to the full-power transition. During this period, each station must air at least one of the following per day:

- a. *Graphic Display.* A graphic super-imposed during programming content that reminds viewers graphically that there are “x number of days” until the full-power transition. They will be visually instructed to call a toll-free number and/or visit a Website for details. The length of time will vary from 5 to 15 seconds, at the discretion of the station.
- b. *Animated Graphic.* A moving or animated graphic that ends up as a countdown reminder. It would remind viewers that there are “x number of days” until the full-power transition. They will be visually instructed to call a toll-free number and/or visit a Website for details. The length of time will vary from 5 to 15 seconds, at the discretion of the station.
- c. *Graphic and Audio Display.* Option (a) or option (b) with an added audio component. The length of time will vary from 5 to 15 seconds, at the discretion of the station.
- d. *Longer Form Reminders.* Stations can choose from a variety of longer form options to communicate the countdown message. Examples might include an “Ask the Expert” segment where viewers can call in to a phone bank and ask knowledgeable people their questions about the transition. The length of these segments will vary from 2 minutes to 5 minutes, at the discretion of the station. (Some stations may also choose to include during newscasts DTV “experts” who may be asked questions by the anchor or reporter about the impending February 17, 2009, deadline.)

(8) On-air outreach must not contain false or misleading information.

Option Three - Consumer Education Requirements.

Option Three is only available to noncommercial broadcasters. Noncommercial broadcasters electing this option (47 C.F.R. § 73.674(e)) must fulfill the following requirements, which will also expire for most broadcasters on March 31, 2009. This requirement also applies separately to a station’s analog channel and its primary digital stream.

- (1) A broadcaster must air 60 seconds per day of on-air consumer education, in variable timeslots, including at least 7.5 minutes per month between 6:00 pm and 12:00 am.
- (2) Beginning May 1, 2008, the above requirement doubles to 120 seconds per day of on-air consumer education, in variable timeslots, including at least 15 minutes per month between 6:00 pm and 12:00 am.
- (3) Beginning November 1, 2008, it increases again, to 180 seconds per day in variable timeslots, including at least 22.5 minutes per month between 6:00 pm and 12:00 am.
- (4) The transition PSAs must be captioned.
- (5) As with the other Options, these items are in addition to, not in lieu of, PSAs on other issues of importance to their local communities.
- (6) Stations are free to use PSAs produced in-house or provided by outside sources such as NAB or the networks.
- (7) Stations must also air at least one 30-minute informational program on the digital television transition between 8:00 am – 11:35 pm on at least one day prior to February 17, 2009.
- (8) On-air outreach must not contain false or misleading information.

Consumer Education Reporting Requirements.

Form 388. A broadcaster choosing to comply with Option One, Two, or Three will be required to report its consumer education efforts as follows:

- (1) For each quarter of required consumer education, the Commission requires that broadcasters complete Form 388 and file it electronically in this docket (07-148) by the tenth day of the succeeding calendar quarter, with a copy placed in the station's public inspection file by that same date, and if the broadcaster has a public website, on that website. Please note that the Commission will announce by Public Notice if Form 388 should be filed in CDBS instead of in the docket.
- (2) The first report, covering the first quarter of 2008, must be filed no later than April 10, 2008, and the last, covering a station's final quarter of mandated educational efforts, will be filed no later than April 10, 2009, for most stations.
- (3) Stations that are required to continue educational efforts beyond March 31, 2009, must also continue to file these quarterly reports, up to and including the final quarter in which they have active educational requirement

Low-Power, Class A, and Translator Stations

No mandatory rules have been adopted to govern any educational efforts of Low-Power, Class A, and Translator Stations. Nevertheless, the Commission has suggested the following for these stations. As Low Power (LPTV) broadcasters will not necessarily cease transmitting in analog after the transition date, the Commission urges all LPTV broadcasters, but particularly those that plan to continue analog-only broadcasting, to immediately begin educating their viewers about this issue. For instance, such stations could notify their viewers that: (1) they are watching a low-power broadcast station that, unlike full-power stations, may continue to offer analog service after February 17, 2009, and (2) viewers who plan to purchase a converter box in order to view digital signals should buy a model with analog pass-through capability in order to continue watching that station.

Multichannel Video Programming Distributor Customer Bill Notices

The Commission will require that all MVPDs (e.g., DBS carriers, cable operators, open video system operators, private cable operators, etc.) provide notice of the full-power DTV transition to their subscribers in monthly bills or billing notices. (47 C.F.R. § 76.1630)

- (1) The notice must be provided as a "bill stuffer" or as part of an information section on the bill itself.
- (2) It must be in clear and conspicuous print, and include the following information:
 - a. After February 17, 2009, a television receiver with only an analog broadcast tuner will require a converter box to receive full power over-the-air broadcasts with an antenna because of the Nation's transition to digital broadcasting. Analog-only TVs should continue to work as before to receive low power, Class A or translator television stations and with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products.
 - b. Information about the DTV transition is available from www.DTV.gov or this MVPD at [telephone number and website if available], and from www.dtv2009.gov or 1-888-DTV-2009 for information about subsidized coupons for digital-to-analog converter boxes;
 - c. A clear explanation of what effect, if any, the DTV Transition will have on the subscriber's access to MVPD service. It must also note that analog sets not connected to an MVPD service may need additional equipment (i.e. converter box) or may have to be replaced.

(3) The message should be provided in the same language or languages as the bill, and explain clearly what impact, if any, the transition will have on the subscriber's access to MVPD service.

(4) MVPDs must begin including these monthly notices on April 30, 2008, and must continue including them monthly through March 2009.

Consumer Electronics Manufacturer Notices

The following rules are provided as amended by the *Order on Reconsideration*.

The Commission requires that the manufacturer, or the party acting as the manufacturer under our rules (i.e., the "responsible party" under Section 2.909 of the Commission's Rules), of television receivers and certain related devices include information with such devices manufactured between May 30, 2008, and March 31, 2009, explaining to consumers what effect, if any, the full-power DTV transition will have on their use. (47 C.F.R. § 15.124)

The related devices covered by this requirement are: all television broadcast receivers as defined in Section 15.3(w); TV interface devices as defined in Section 15.3(y); devices that record and/or display signals received from television broadcast receivers; and set-top boxes available for sale at retail that receive video programming provided by multi-channel video programming distributors.

The notices must:

(1) Be in clear and conspicuous print;

(2) Convey at least the following information about the DTV transition:

(i) After February 17, 2009, a television receiver with only an analog broadcast tuner will require a converter box to receive full power over-the-air broadcasts with an antenna because of the Nation's transition to digital broadcasting. Analog-only TVs should continue to work as before to receive low power, Class A or translator television stations and with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products.

(ii) Information about the DTV transition is available from www.DTV.gov or 1-888-CALL-FCC, and from www.dtv2009.gov or 1-888-DTV-2009 for information about subsidized coupons for digital-to-analog converter boxes; and

(iii) The effect, if any, the DTV transition will have on the use of the receiver or related device, including any limitations or requirements associated with connecting a related device to a DTV receiver.

DTV.gov Partner Consumer Education Reporting

The Commission requires DTV.gov Transition Partners to report their consumer education efforts, as a condition of continuing Partner status. Reports should be filed into the record of this proceeding on a quarterly basis, beginning on April 10, 2008 and concluding April 10, 2009. Additionally, individual copies of the reports should be sent, via electronic mail or hard copy format, to the Chief and to the Chief of Staff of the Commission's Consumer and Governmental Affairs Bureau, as well as sent electronically to dtvreporting@fcc.gov.

Federal Universal Service Low-Income Program Participant Notices

The following rules are provided as amended by the *Order on Reconsideration*.

The Commission requires all eligible telecommunications carriers (“ETCs”) that receive federal universal service funds to provide DTV transition information to their Lifeline/Link-Up customers on a monthly basis.

(1) The notice must be provided as a “bill stuffer,” as part of an information section on the bill itself, or as a monthly stand-alone mailer (*e.g.*, postcard, brochure) in the same language or languages as the customer’s bill.

(2) It must be in clear and conspicuous print, and convey at least the following information about the DTV transition:

- a. After February 17, 2009, a television receiver with only an analog broadcast tuner will require a converter box to receive full power over-the-air broadcasts with an antenna because of the Nation’s transition to digital broadcasting. Analog-only TVs should continue to work as before to receive low power, Class A or translator television stations and with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products.
- b. Information about the DTV transition is available from www.DTV.gov, and from www.dtv2009.gov or 1-888-DTV-2009 for information about subsidized coupons for digital-to-analog converter boxes

(3) If the ETC’s Lifeline/Link-Up customer does not receive paper versions of either a bill or a notice of billing, then that customer must be provided with equivalent monthly transition notices in whatever medium they receive information about their monthly bill, or as a monthly stand-alone mailer (*e.g.*, postcard, brochure).

(4) Finally, ETCs that receive federal universal service funds must provide this same basic information as part of any other Lifeline or Link-Up publicity campaigns. The customer bill notice requirement, as revised, runs from May 31, 2008 through March 2009, and the publicity requirement will run for the same period.

Entities Directly Affected by the Rule

- Television Broadcasting
- Class A TV, Low Power TV, TV Translator Stations
- Cable and Other Subscription Programming
- Cable Television Distribution Services
- Cable System Operators (Rate Regulation Standard)
- Cable System Operators (Telecom Act Standard)
- Satellite Carriers
- Direct Broadcast Satellite Service
- Fixed Satellite Service
- Private Cable Operators
- Home Satellite Dish Service
- Open Video Systems
- Wireless Cable Systems
- Wireless Cable Systems (Commission Auction Standard)
- Incumbent Local Exchange Carriers
- Competitive Local Exchange Carriers
- Competitive Access Providers
- Shared-Tenant Service Providers
- Other Local Service Providers
- Retailers

- Radio, Television, and Other Electronics Stores
- Electronic Shopping
- Electronics Equipment Manufacturers

DTV • VIEWABILITY PROCEEDING: CS DOCKET NO. 98-120

TITLE: CARRIAGE OF DIGITAL TELEVISION BROADCAST SIGNALS: AMENDMENT TO PART 76 OF THE COMMISSION'S RULES, CS DOCKET NO. 98-120, THIRD REPORT AND ORDER AND THIRD FURTHER NOTICE OF PROPOSED RULEMAKING, FCC 08-56, 22 FCC RCD. 21064, (REL. NOV. 30, 2007; FR PUBLICATION: FEB. 1, 2008).

Copies available at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-170A1.pdf
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-170A1.doc

Objectives of the Proceeding

The Commission initiated this proceeding to address the responsibilities of cable television operators with respect to their carriage of digital broadcast stations in light of significant changes to the broadcasting and cable television industries resulting from the Nation's transition to digital television. In this *Third Report and Order* of the proceeding, the Commission adopted rules to ensure that cable subscribers will continue to be able to view must-carry broadcast stations after the DTV transition, and that they will be able to view those broadcast signals without material degradation. The item reaffirmed the material degradation requirements adopted by the Commission in 2001, and established two alternative approaches that cable operators may use to meet their responsibility to ensure that cable subscribers with analog television sets can continue to view all must carry stations after the end of the DTV transition.

Regulations and Policies the Commission has Modified

Material Degradation – Sections 614(b)(4)(a) and 615(g)(2)

The Communications Act requires that signals not be “materially degraded” and that the Commission adopt carriage standards to ensure that, to the extent technically feasible, a cable system's quality of signal processing and carriage for local commercial television will be no less than that provided by the system for carriage of any other type of signal. In 2001, the *First Cable DTV Must Carry Report and Order* established a requirement that HD signals be carried in HD, as well as a comparative approach to determining whether material degradation has occurred.

In the *Third Cable DTV Must Carry Report and Order*, the Commission has reaffirmed these requirements. (47 C.F.R. 76.62(b)). The Commission has also clarified that it does not constitute material degradation for a station to downconvert a digital signal to an analog signal to comply with the viewability requirement. (47 C.F.R. § 76.62(h)).

Availability of Signals – Sections 614(b)(7) and 615(h)

The Commission adopted rules (47 C.F.R. § 76.56(d)(3)) requiring cable systems that are not “all-digital” to provide must-carry signals in analog, while “all-digital” systems may provide them in digital form only.

After the digital transition, every full-power must-carry station will be broadcast solely in digital, while the use of analog receivers (i.e., analog TV sets) will continue for an indefinite time. The specific rules adopted in this *Report and Order* will be in force for three years from the date of the digital transition (i.e., until February 17, 2012) subject to review by the Commission during

2011. This provides the Commission with the opportunity after the transition to review these rules in light of the potential cost and service disruption to consumers, and the state of technology and the marketplace.

Cable operators must either: (1) carry the signals of commercial and non-commercial must-carry stations in analog format to all analog cable subscribers, or (2) for all-digital systems, carry those signals only in digital format, provided that all subscribers with analog television sets have the necessary equipment to view the broadcast content. (47 C.F.R. § 76.56(d)(3)(i)-(ii))

Therefore, cable systems that are *not* “all-digital” must provide must-carry signals in analog, and “all-digital” systems may provide must-carry signals to subscribers in digital form only, so long as the signals are viewable by all subscribers.

Any costs of the headend down conversion must be borne by the cable operator. (47 C.F.R. § 76.56(d)(4))

When calculating whether an operator has reached or exceeded the one-third carriage cap, the Commission will count the system spectrum occupied by all versions of a commercial broadcast signal (both digital and analog). (47 C.F.R. § 76.56(e)).

Operators of systems with an activated channel capacity of 552 MHz or less that do not have the capacity to carry additional versions of must-carry stations may seek a waiver from the Commission.

The *Third Report and Order* included a *Third Further Notice of Proposed Rulemaking* which sought comment on, among other topics, ways to modify the material degradation rules to minimize the impact on small cable systems while still complying with statutory requirements.

Entities Directly Affected by the Rule

- Cable and Other Program Distribution
- Cable Companies and Systems
- Cable System Operators
- Television Broadcasting
- Other Program Distribution
- Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing

DTV • DBS CARRIAGE PROCEEDING: CS DOCKET NO. 00-96

TITLE: CARRIAGE OF DIGITAL TELEVISION BROADCAST SIGNALS: AMENDMENT TO PART 76 OF THE COMMISSION'S RULES; IMPLEMENTATION OF THE SATELLITE HOME VIEWER IMPROVEMENT ACT OF 1999: LOCAL BROADCAST SIGNAL CARRIAGE ISSUES AND RETRANSMISSION CONSENT ISSUES, CS DOCKET NO. 00-96/CSR-5978-M, SECOND REPORT AND ORDER, MEMORANDUM OPINION AND ORDER, AND SECOND FURTHER NOTICE, FCC 08-86 (REL. MAR. 27, 2008; FR PUBLICATION: MAY 5, 2008).

Copies available at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-86A1.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-86A1.doc

Objectives of this Proceeding

The Commission has previously determined that digital-only stations are allowed to elect mandatory cable carriage or retransmission consent on cable systems. In the *DBS Broadcast Carriage Second Report and Order*, the Commission determined that digital-only stations – whether new digital entrants, or stations switching to digital and returning their analog spectrum – are also granted mandatory satellite carriage in “local-into-local” markets. This *Second Report and Order* also includes a requirement to carry all HD signals in a market in which any station’s signals are carried in HD. This requirement is phased in over a four year period.

Regulations and Policies that the Commission Modified

Digital-Only Carriage

In this *Second Report and Order* the Commission amended its rules (47 C.F.R. § 76.66(b)(1)) to require satellite carriers to carry digital-only stations upon request in markets in which the satellite carrier is providing any local-into-local service pursuant to the statutory copyright license.

HD Carry-One, Carry-All

Furthermore, satellite carriers will be required to carry each digital broadcast station in the market in the same manner, including carriage of HD signals in HD format if any local station in the same market is carried in HD. (47 C.F.R. § 76.66(k)(1))

The Commission permits satellite carriers to “phase in” their carriage of all HD signals on a market-by-market basis, on the following schedule (47 C.F.R. § 76.66(k)(2)(i) – (iv)):

- (i) By February 17, 2010, a satellite carrier must provide carriage of HD broadcast stations in HD, in at least 15% of the markets in which they carry any station pursuant to the statutory license in HD (47 C.F.R. § 76.66(k)(i));
- (ii) The HD carry-one, carry-all requirement will apply to 30% of a satellite carrier’s HD markets no later than February 17, 2011 (47 C.F.R. § 76.66(k)(ii));

(iii) The HD carry-one, carry-all requirement will apply to 60% of a satellite carrier's HD markets no later than February 17, 2012 (47 C.F.R. § 76.66(k)(iii));

(iv) The HD carry-one, carry-all requirement will apply to 100% of a satellite carrier's HD markets no later than February 17, 2013 (47 C.F.R. § 76.66(k)(iv)).

Carriage Election

In any market in which a satellite carrier is currently offering or in the future offers local-into-local service pursuant to the statutory copyright license in 17 U.S.C. § 122, it must carry digital-only stations in that market upon request. (47 C.F.R. § 76.66(b)(1)) In markets currently subject to "carry-one, carry-all," the rules pertaining to new stations will govern carriage elections for digital-only stations (whether new stations or stations that have returned their analog spectrum) and satellite carriers.

A station that turns off its analog signal and returns its licensed spectrum to the Commission and commences operation in digital-only prior to January 1, 2009 constitutes a "new station" for purposes of this rule. For markets in which local-into-local service is initiated after the release of this Order, stations and carriers should follow the rules for "new local-into-local service." (47 C.F.R. § 76.66(d)(2)(vi)) By operation of this *Report and Order*, digital-only stations are entitled to request carriage.

In accordance with the regular tri-annual carriage elections, a station must elect on October 1, 2008, whether it wishes to engage in retransmission consent negotiations with satellite carriers or elect mandatory carriage status. If a station elects mandatory carriage rights on October 1, 2008, satellite carriers must provide carriage of that station's analog signal beginning (or continuing) on January 1, 2009, and concluding no earlier than the actual termination of analog service by that broadcaster. Once that station terminates analog service and begins digital broadcasting, the Commission requires that the satellite carrier commence carriage of that station's digital signal without any break in carriage.

To facilitate the transition process, beginning January 1, 2009, the Commission also requires that satellite carriers immediately commence carriage of the digital signal of stations that cease analog broadcasting prior to February 17, 2009. However, broadcasters must notify satellite carriers on or before October 1, 2008, of the date on which they anticipate termination of their analog signal if that date will be earlier than February 17, 2009.

HD Carry-One, Carry-All Notification Requirement

Satellite carriers are also required (47 C.F.R. § 76.66(d)(2)(vi)) to notify all local stations in a market of their intent to launch HD carry-one, carry-all in that market at least 60 days before commencing such carriage.

Program-Related

The Commission has concluded that certain over-the-air digital services, such as closed-captioning and V-chip information, are sufficiently and incontrovertibly related to the broadcaster's primary digital video programming such that satellite carriers will be required to carry them when they carry a digital-only station.

Signal Quality

For purposes of carriage by satellite carriers, the Commission determined that -61 dBm is the signal level necessary to provide a good quality digital television signal at a satellite carrier's local receive facility.

Entities Directly Affected by the Rule

- Television Broadcasting
- Satellite Carriers
- Direct Broadcast Satellite Service
- Fixed Satellite Service