

**Written Statement
Of**

**The Honorable Kevin J. Martin
Chairman
Federal Communications Commission**

**Before the
Committee on Energy and Commerce,
Subcommittee on Telecommunications and the Internet
U.S. House of Representatives**

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Good morning Chairman Dingell, Chairman Markey, Ranking Member Barton, Ranking Member Upton, and Members of the Committee. Thank you for inviting me here today to update you on the status of the digital transition.

A little over one year from today, on February 17, 2009, all full power television stations in this country will stop broadcasting in analog, and broadcast exclusively in digital, as mandated by Congress in the Digital Television and Public Safety Act of 2005. A successful digital transition will depend upon minimizing the burdens placed on consumers and maximizing their ability to benefit from it.

The DTV transition will be a historic moment in the evolution of TV. Television viewers will be able to enjoy movie quality picture and sound and potentially a wealth of new programming choices. It also will allow us to significantly improve public safety communications and will usher in a new era of advanced wireless services such as the widespread deployment of wireless broadband.

According to data from the Consumer Electronics Association and the National Association of Broadcasters, consumer awareness of the transition has grown in recent years. It is up 80% since 2006, according to CEA, and has more than doubled since 2007, reports NAB. And recent surveys published by NAB and Consumers Union found 79% and 64% of consumers were aware of the transition respectively. That more and more viewers are aware of the transition is a step in the right direction. However, the Consumers Union also found that 74% of consumers have “major misconceptions” about

the impact of the transition on them. In other words, too many Americans remain confused about what they need to do to prepare for it. Taken together, these surveys are valuable research tools to better guide our education and outreach efforts over the next twelve months.

This recently released data also demonstrates that facilitating a successful DTV transition is an enormous undertaking. And it is one which no single entity, public or private, can achieve alone. Rather it requires the commitment and cooperation of government, industry and consumer groups. We have made that commitment and are actively working with these important stakeholders.

Last week I participated in an event marking one year before the transition at a local Best Buy store which sells digital televisions and will be selling digital to analog converter boxes. Commerce Secretary Gutierrez, Meredith Baker and I were joined there by top representatives of the nation's broadcasters, cable operators, and the consumer electronics industry. We are working together, along with others inside and outside of government, in an unprecedented public-private partnership to educate consumers throughout the country about what they need to do to be able to watch TV following the transition as they did before. Today's hearing is a welcome opportunity to discuss our work with all of our DTV partners both in terms of outreach and education and necessary regulatory steps to ensure all Americans can share the benefits of this historic digital transition.

UPDATE ON BROADCASTERS TRANSITION TO DIGITAL

Currently, more than 95 percent of full power television stations are broadcasting a digital signal. Nearly two-thirds of full power stations (1180) will remain on the same channel they are currently using for digital service. The majority of these stations, over 850, have completed construction and are providing full service to their viewers. The remainder, roughly 300, are working on completing construction of their full service facilities. One-third of full power stations, (roughly 600, are changing channels for their operation after the transition), and are currently filing construction permit applications with the Commission, ordering equipment, and scheduling tower crews.

The Commission has adopted the final DTV table of allotments based on the channel elections made by the full power broadcast stations. This order provided virtually all (over 99%) of these television stations across the country with their final channel assignments for broadcasting in digital following the DTV transition. By finalizing broadcasters' channel allotments, the Commission helped ensure that the analog spectrum the broadcasters are vacating will be available as planned by 2009.

We also concluded the Third DTV Periodic Review, which adopted the procedures and rules to guide broadcasters through the end of the transition. Among other important decisions, this order adopted the interference standard for post-transition applications and forecast the date, later this year, when the Commission will consider requests from broadcasters to expand their station facilities.

In the Third DTV Periodic Review, the Commission recognized that stations will need flexibility to complete the transition. Consequently we adopted procedures that will allow broadcasters to adjust their buildout according to their needs and the needs of their viewers. We will consider requests from broadcasters that find it necessary to reduce analog service before the transition date, but they will be required to inform their viewers well in advance of any reductions.

In addition to getting the proper rules in place, it is important that progress be carefully monitored. Accordingly, to enable the Commission to closely track broadcasters' progress toward completing their transition, we required each station to file and update with the Commission by next week the status of the construction of its post transition facility. The Commission will make this information available to Congress, to the broadcast industry, and to the public. In addition to earlier updates, broadcasters must report their status again by October 20, 2008.

CARRIAGE OF DIGITAL SIGNALS

Last fall, the Commission adopted an order that guarantees that all cable customers will be able to watch all broadcast stations after the digital transition. Specifically, the Commission took action to ensure cable operators continue to make signals of all broadcast stations viewable after the transition, as the statute requires. As a result, we significantly reduced the number of Americans potentially needing a converter box to watch broadcast stations post-transition. Making sure the almost 35 million households that subscribe to analog cable will be able to continue to watch broadcast television after

the transition as they did before allows us to focus our energies on assisting the nearly 15 million households that rely exclusively on over-the-air signals.

The Commission now has before it an item that would enable satellite subscribers to receive digital broadcast signals, as well. Currently, the law requires that when a satellite operator chooses to carry any local broadcast signals, it must carry all full power local broadcast signals in that market. The pending item clarifies that, in such a “local-into-local” market, where a full power television station is broadcasting only in digital, it is the digital signal that the satellite operator carries. This clarification is critical to ensuring that satellite customers, like cable customers, will continue to receive the same broadcast stations they saw the day before the transition on the day after the transition.

Finally, I also recently circulated an item that would clarify the process for when and how broadcasters will elect carriage of their digital signals. Specifically, consistent with existing rules, broadcasters must decide by October 1, 2008 whether they want to assert their must carry rights or negotiate for carriage of their broadcast signal for the years 2009-2011. We propose to clarify in the pending item that whichever decision they make, it will apply to their analog signal before the transition date and their digital signal after that date.

These items should help reduce the burden on consumers thereby fostering a smooth transition.

ENFORCEMENT

The Commission's DTV-related enforcement efforts have focused on protecting consumers from unknowingly buying televisions that won't receive broadcast stations following the transition. Specifically, we are enforcing three rules: 1) the requirement to label any remaining televisions with analog-only tuners; 2) the prohibition on the importation and shipment of television receivers without integrated digital tuners; and 3) the requirement that the V-Chip functions with the digital technology.

With respect to the Commission's labeling requirement, the Commission has, as of February 11, 2008, inspected 1829 retail stores and websites and issued 316 citations notifying retailers of violations for failing to comply with our requirements. Because retailers are not licensees, we must give them a citation prior to issuing a Notice of Apparent Liability (NAL).

We currently have NALs pending against 14 retailers. These fines in the aggregate total almost \$4 million. In addition, the Enforcement Bureau has issued another seven NALs. It is my hope that through our vigorous enforcement actions, retailers will take concrete actions to avoid consumer confusion as the digital transition draws near.

In addition to our labeling investigations, we are continuing to ensure that no manufacturers are importing and shipping analog-only television receivers and equipment. We have issued NALs against two companies - Syntax Brilliant Corp. (approx. \$2.9 million) and Regent USA, Inc. (\$63,650) - for apparent violation of our rules in this area. One of these companies has already paid the fine and a forfeiture order

with respect to the other company is on circulation. In addition, we are in the process of investigating potential violations against several other companies. I hope to quickly bring these matters to resolution.

Finally, we are ensuring that the digital tuners comply with the V-Chip regulations. As you know, the Commission's rules require digital television manufacturers to include the V-Chip in their equipment and to ensure that their devices can adjust to changes in the content advisory system. Thanks to the information referred to us by Chairman Markey, we began investigating allegations that some manufacturers were not complying with our rules. As a result of these investigations we released an NAL against Funai Corporation for \$7.7 million. NALs against nine other manufacturers, totaling over \$6.5 million are also on circulation.

Swift enforcement of all our DTV-related rules is critical to protecting consumers and reducing potential confusion. Our activities in this area will continue to be a priority during the next 12 months.

CONSUMER EDUCATION AND OUTREACH

In order to educate consumers properly, all parties involved in the transition - - the FCC, NTIA, the broadcasters, the cable industry, satellite, manufacturers, retailers, consumer groups - - need to put forth correct, clear and consistent messages about how to get prepared.

I commend the industry for the consumer education campaigns that they have initiated. Specifically, the National Association of Broadcasters (NAB) launched a \$697 million campaign that includes, among other things, television spots, 30 minute education programs about DTV and a 100-day countdown to the February 17, 2009 deadline. In addition, the National Cable and Telecommunications Association (NCTA) launched a \$200 million campaign that includes, among other things, sending customer communication “tool kits” to all their cable systems nationwide, and distributing brochures about the transition at community and public events.

At the suggestion of Chairmen Dingell and Markey, the Commission initiated a DTV Education Notice of Proposed Rulemaking (NPRM). This NPRM sought comment on whether to require the industry to use bill inserts, public service announcements, and other techniques to educate consumers about the transition.

As you suggested, I have circulated a proposal to my colleagues that requires broadcasters to use PSAs and screen crawls throughout the day, including during the prime time hours, to inform viewers about the transition and to publicly report on these education efforts on a quarterly basis. The item also requires MVPDs to provide monthly inserts about the DTV transition in their customer billing statements. The item also requires manufacturers of television receivers and related devices to provide notice to consumers of the transition’s impact on that equipment. In addition, we require the partners listed on the Commission’s www.dtv.gov website to provide the Commission with quarterly updates on their consumer education efforts. Finally, the item states that

we will work with the National Telecommunications and Information Agency (NTIA) to ensure that the retailers participating in the converter box program are appropriately training their employees and informing consumers.

Just last Friday we received a proposal from NAB setting forth alternative actions as a safe harbor that broadcasters could take to educate consumers about the transition. We are currently in the process of evaluating this new proposal and hope to finalize this item quickly.

In addition to our DTV Consumer Education item, the Commission is actively and directly promoting consumer awareness of the upcoming transition through its own education and outreach efforts.

The FCC's consumer outreach effort places an emphasis on consumers who receive their television signals "over-the-air" and on those who are hard to reach and may be unaware of the upcoming transition, including senior citizens; non-English speaking and minority communities; people with disabilities; low-income individuals; and people living in rural and tribal areas.

We have been forging partnerships, participating in media events, attending conferences, and doing whatever we can to get the word out. For example, DTV education posters will be displayed in all 34,000 post offices across the nation. The United States Postal

Service estimates that an average of 9 million people pass through their retail lobbies each day.

We have also secured commitments from 24 states, the District of Columbia and Puerto Rico to display DTV materials in 1100 Department of Motor Vehicle locations. Specifically, we have secured commitments with Arizona, Colorado, District of Columbia, Hawaii, Idaho, Louisiana, Maine, Massachusetts, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Ohio, Oklahoma, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Washington, West Virginia, Wisconsin and Wyoming.

You will also be seeing billboards about the transition on buses and in subway stations in large metropolitan areas such as here in the DC Metro transit system.

The FCC also distributed DTV transition awareness information that will be provided to all federal government employees. We estimate that this message will reach over 2.5 million people around the country.

We also know that some consumers will be disproportionately impacted by the transition or are harder to reach than the population at large. Therefore we have been taking specific steps to reach these groups. Specifically, we have been focusing our resources on three primary activities: attending conferences and hosting workshops, disseminating information via the news media, and partnering with industry, consumer, and other

groups. I would like to take a few minutes to describe our efforts targeted at each of these five communities.

Senior Citizens:

Senior citizens are more likely to have older television sets relying exclusively on over the air broadcasting. We have partnered with organizations that specifically serve this harder to reach population such as the AARP.

For example, we are working with AARP to disseminate digital transition information through their Tax Aid Program that makes volunteers available to assist AARP members in preparing their taxes. As part of this program, FCC-prepared DTV information sheets, in English and Spanish, are being made available to 32,000 volunteers across the country for distribution as they visit low and moderate income taxpayers, with special attention to those individuals 60 and older. And, last September, we presented two DTV education sessions at the national AARP convention in Boston and we have plans to make similar presentations at this year's convention in Washington, DC. In addition, late last fall, I was interviewed about the transition on AARP radio which is broadcast on 170 outlets nationwide reaching more than 1,000,000 people.

In addition to working with AARP, we have also been working with other senior organizations as well. For example, I taped a PSA to be aired on Retirement Living TV which reaches nearly 30 million homes nationwide and participated in a story about the transition for a newsletter read by the 6.4 million residents of Erikson retirement

communities. We are also pleased to be partnering with The National Association of Area Agencies on Aging (N4A) to cosponsor DTV awareness sessions during the coming year in conjunction with their 655 area offices throughout the nation. This is a useful opportunity to educate caregivers, social workers and others who care for the elderly.

In addition to working with these organizations, we have also set up partnerships with the State Aging Offices in Rhode Island, Massachusetts, Michigan, Louisiana, Arizona, Colorado, Washington, D.C., and Tennessee. These states are including information about the DTV transition in outreach materials, and at conferences. We are optimistic that in the coming weeks we will have similar commitments from additional state offices.

We are also putting to work on this issue Commission staff located around the country. FCC field agents are continuing to distribute information materials to senior centers, libraries and other local venues frequented by older Americans. Through the work of our field agents, we are able to reach these consumers in a total of 36 states – ranging from Alaska to Florida. We have already distributed information to over 3133 senior centers, senior organizations, and community groups and given nearly 385 presentations with 106 more scheduled in the days ahead.

The FCC also held a DTV Workshop focusing on seniors at FCC Headquarters on November 8, 2007. It consisted of two panels discussing the transition's effect on seniors plus exhibits by industry. Based on the discussions at that Workshop, we reached out to

faith-based organizations, provided them with consumer education materials on the transition, and continue to follow up with them to answer questions on the transition.

Non-English Speakers and Minorities:

The Hispanic community disproportionately relies on over-the-air television. Of the 15 million broadcast only homes, one-third are occupied by primarily Spanish speakers. Indeed, almost half (43%) of homes where Spanish is the primary language rely exclusively on over-the-air broadcasting for their television.

The Hispanic Chamber of Commerce has agreed to join the Commission in conducting DTV awareness sessions at member chambers in the 10 biggest cities nationwide which are home to 80% of the Hispanic population. The first of these sessions will be held later this month in Chicago. Similarly, we have also partnered with Univision to hold DTV awareness sessions at Town Hall meetings designed to educate members of its Spanish speaking audience. Additionally, we have taped several on-air interviews regarding the digital transition for Univision's news and public affairs programs airing both in local markets and nationally. These interviews were done by Keyla Hernandez-Ulloa the Commission staffer hired to spearhead outreach to the Hispanic community. We have been discussing the switch to digital on other Hispanic media outlets as well. For example, I did an interview with the Hispanic Communications Network, which produces material for radio, television, print and Internet, that will be distributed to its 230 member radio network in the United States and Puerto Rico.

We want to work with other foreign language media outlets as well. To that end we have partnered with KTSF, a major Asian TV station in San Francisco, to put 5,000 English and Chinese DTV one page flyers at their booth during the Chinese New Year celebration events in late February. Last year approximately 100,000 people attended this festival.

The FCC held a DTV Workshop focusing on non-English speakers and minorities on December 4, 2007. As a result of that Workshop, we will be conducting a nationally available Internet seminar or “webinar” about the DTV transition on April 8th for librarians in the Webjunction Spanish Outreach Program. These librarians provide library services to Spanish speakers. We will also be providing them with a Spanish version of the presentation on DVD for distribution to libraries. Finally, following the workshop, we translated our DTV one page flyer into Hmong and Arabic (in addition to English, Spanish, Vietnamese, Chinese, Tagalog, French and Russian).

In addition, we plan to participate in a number of national conventions representing non-English speaking and minority consumers in 2008. They include the 78th Annual Conference for League of United Latin American Citizens, the Annual National Hispanic Leadership Conference and the National Council of La Raza Conference, the NAACP Convention, the National Urban League Conference and the Organization of Chinese Americans National Conference.

People with Disabilities:

The Commission is also taking specific steps to inform people with disabilities about the transition to all digital broadcasting. On February 28, 2008, the FCC is sponsoring a DTV Consumer Education Workshop designed to build upon these efforts. Also, later this month the Commission's DTV website, DTV.gov, will feature a video in American Sign Language for the deaf and hard of hearing community. Our most commonly utilized publications are available in Braille and audio format and all our fact sheets and advisories are available in large print. In addition, we have two specific publications addressing DTV and closed captioning, "Closed Captioning for Digital Television," and Closed Captioning and Digital-to-Analog Converter Boxes for Viewing Free Over-the-Air Programming on Analog Televisions." The Commission also has a dedicated email box for closed captioning questions at closedcaptioning@fcc.gov.

Commission staff continues to attend conferences to distribute DTV educational materials to people with disabilities. For example, the FCC has attended and provided DTV materials at the National Black Deaf Advocates Conference, the Vocational and Educational Services for Individuals with Disabilities Conference and the Emergency Planning and Response for Special Needs and Disabilities Conference.

In all, we have collaborated with disability advocacy groups and outreach organizations. For instance, the Hearing Loss Association of America ("HLAA") is already linking to our DTV informational materials on its website, which receives approximately one million hits per month. In addition, HLAA has committed to publish an article on DTV

and closed captioning in *Hearing Loss Magazine*, which is estimated to reach a readership of 200,000 people. Furthermore, HLAA has 200 local and regional chapters around the country, and we plan to conduct DTV Awareness Sessions at their monthly meetings throughout the course of the year. We also plan to utilize our Enforcement Bureau's Field Office staff and CGB staff to distribute DTV informational and educational materials at HLAA's "Walk4Hearing" events across the country taking place this spring through the fall.

Low Income Consumers:

The Commission is also taking specific steps to inform low-income consumers about the transition to all digital broadcasting. For example, the Department of Health and Human Services has made a commitment to assist the FCC in disseminating DTV material to target populations, including low-income consumers.

In addition, on April 1, 2008, the FCC will sponsor a DTV Consumer Education Workshop that will focus on reaching low-income consumers.

Rural and Tribal Consumers:

The Commission is also taking specific steps to inform people living in rural and tribal lands about the transition to all digital broadcasting. For example, the Commission recently established a partnership with the United States Department of Agriculture's 4-H office. We will be providing DTV information at approximately 150 state and county fairs and will be conducting "Train the Trainer" workshops at 4-H leadership

conferences. After attending these training sessions 4-H members can help spread the word to their families and communities about getting ready for February 17, 2009.

We also have forged a partnership with the Bureau of Indian Affairs. This collaboration has resulted in the distribution of DTV materials throughout Indian Country, utilizing all 50 of their nationwide area offices. Commission staff has attended and provided DTV materials at the National Conference of American Indians, and the Rural TeleCon Conference, with many additional events planned for this year such as participation in the National Association of Development Organizations in Alaska Conference and the Affiliated Tribes of Northwest Indians Annual Conference.

Finally, on January 31, 2008, we held a workshop at Commission headquarters focused on reaching rural consumers and consumers on tribal lands. We received many useful suggestions at this workshop on how to better reach these communities and intend to implement them as soon as possible.

Since the last time I testified, Congress has allocated the Commission money to spend on our consumer education efforts. We intend to put these resources to good use.

Additional funds will allow the Commission to expand upon its current consumer outreach and education plan. Last month, we initiated a procurement seeking support for a broad range of consumer education services, including media services, publications, and distribution networks, that will assist and complement the FCC's ongoing work on

educating all American consumers about the digital television transition. The procurement closed last week and FCC staff is currently reviewing these proposals.

CONCLUSION

The Commission is devoting significant resources to facilitate a smooth transition. Nearly every Bureau and Office at the Commission has been involved in this effort including our field offices across the country.

We intend to take whatever actions are necessary to minimize the potential burden the digital transition could impose on consumers and maximize their ability to benefit from it. The next 12 months will undoubtedly be challenging. Nevertheless, it is my hope that through the combined efforts of government, industry and advocacy groups American consumers will reap the rewards that the digital transition has to offer.