

September 12, 2008

The Honorable Kevin J. Martin  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Mr. Chairman:

As we distill the results of the Wilmington test, one lesson is already becoming clear: for consumers, this is not a national transition to digital television; it is millions of individual transitions in millions of American homes. Each consumer making the transition faces a unique set of issues and a unique set of challenges. Unless we sharpen our approach to reflect that reality, we face the possibility of enormous consumer disruption on February 17, 2009—now less than 160 days away.

Most of the outreach efforts thus far—ours and the private sector’s—have been aimed at increasing consumer awareness that the transition is coming and giving general advice about how to prepare. These efforts are important and must continue.<sup>1</sup> But it is time now to help consumers better understand the specific problems they may encounter before the February deadline. In Wilmington, for instance, early analysis indicates that the great majority of residents who sought help in the wake of the switch-over had specific technical problems—*e.g.*, converter box installation issues, antenna or other reception problems—and sought individualized assistance from the FCC and others. Watching additional generalized PSAs would have done them no good; they needed specific help for their specific problems.

As you know, I have long been concerned about the pace of preparation for the transition. Those concerns persist. The purpose of this letter, however, is not to look back at what might have been done differently, but to share with you in more detail some ideas we have discussed concerning what we should do now, in the time we have left, and to offer some additional suggestions. These proposals are designed to help the Commission focus its priorities over the next several months, minimize the loss of television service next February, and help restore service as quickly as possible wherever

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<sup>1</sup>The lessons of Wilmington may be limited in this regard, given that the rest of the country is unlikely to receive the kind of intensive, hands-on outreach that Wilmington received.

disruption occurs. As detailed in the attached appendix, I believe that the Commission should take the following steps:<sup>2</sup>

- 1. Conduct additional field testing**
- 2. Dedicate a special FCC Team to the needs of at-risk communities**
- 3. Ramp up the FCC Call Center**
- 4. Prepare comprehensive DTV contingency plans**
- 5. Create an online DTV Consumer Forum**
- 6. Educate consumers on DTV trouble-shooting, including antenna issues and the need to “re-scan” converter boxes and sets**
- 7. Ensure that broadcasters meet their construction deadlines**
- 8. Encourage the rapid deployment of small, battery-powered DTV sets**
- 9. Find a way to broadcast an analog message to consumers following the transition**

In making these proposals, I do not in any way mean to diminish the tireless outreach efforts of Commission staff—particularly over the past several months. They have done a truly impressive job. And I am most appreciative of your commitment to make the transition work. I also welcome the consumer outreach and other measures that industry has taken and will continue to take. I appreciate and commend all these efforts—although I still wish we had a more integrated and coordinated public-private partnership to tackle this huge challenge. The climb before us strikes me as daunting as ever and time is growing short. I look forward to discussing these proposals further with you and working together to make this transition as smooth as possible for the American people.

Warm regards,

Michael J. Copps

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<sup>2</sup>Each of these proposals can be initiated on our own authority. I therefore do not include potentially helpful proposals that would require others to act—such as creation of a federal inter-agency DTV task force (which I’ve long advocated) or changes to the converter box coupon program. I would note that serious concerns have been raised about the converter box program, including the extent to which NTIA will be able to redistribute unredeemed and expired coupons (currently less than half of the coupons that have reached their expiration date were redeemed prior to expiration).

## Steps the FCC Should Take to Advance the DTV Transition

**1. Conduct additional field testing.** I greatly appreciate your efforts and the public service of the people of Wilmington for taking the idea of a full-scale test market and making it a reality. And I agree with you that the ultimate success of the test will be determined not by what happened in Wilmington last Monday, but by what we learn and apply to the rest of the country before next February. I regret that broadcasters in other markets have not stepped forward to do similar full-scale tests in markets with different topographies and demographics. The relatively flat and unobstructed terrain in Wilmington, for instance, limited the lessons we can learn about how digital signals travel in urban areas with tall buildings or in areas with mountains, valleys or other challenging terrain.

In my letter to you of last March proposing test markets, I stated that whether or not we are able to conduct full-scale testing, there are a number of more limited DTV field tests that we can and should conduct in advance of the transition date. Such tests would not raise the logistical concerns of a full-scale trial because the analog broadcast signals in these markets would remain. Even at this late date, this kind of limited field testing could provide valuable “lessons learned” that could be applied to the nationwide transition next February.

**Action Item:** The Commission should conduct field tests in various markets, focusing on DTV reception issues. These tests would examine issues such as the digital “cliff effect”<sup>1</sup> and whether consumers are able to receive all of the stations they received in analog with their existing antenna set-up or whether they need to move their antenna or buy a new one—*e.g.*, an outdoor antenna where an indoor antenna worked in analog, which could be a hazardous prospect for many consumers to contemplate in the middle of the winter. These tests should take consumers as we find them, not as broadcast engineers assume them to be (we should not assume, for example, that every consumer has a 30-foot outdoor antenna). To make the tests most useful, we should partner with broadcasters or other local organizations to enlist the participation of actual consumers trying to make the switch in their homes. These real-world “lessons learned” would help us focus our message and plan the kind of support consumers will need nationwide.

**2. Dedicate a special FCC Team to the needs of at-risk communities.** Many communities (*e.g.*, minorities, non-English-speakers, low-income consumers, the elderly, Native Americans, rural residents, people with disabilities) disproportionately rely on over-the-air service, are more difficult to reach, and often face special challenges in obtaining, installing and using digital equipment. These communities may be the last to learn about the transition, face the most hurdles, and have the most to lose. A successful transition requires targeted, ongoing outreach and assistance for these communities.

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<sup>1</sup> An analog TV signal that is weak or receives interference may display static or snow, but often the picture will be watchable through the noise. By contrast, digital TV signals can provide a clear picture even with a weak signal or in the presence of interference. But if the digital signal falls below a certain minimum strength, the picture can disappear entirely. This “cliff effect” means that some consumers that received watchable—albeit not perfect—signals in analog may lose those signals entirely when they transition to digital unless they adjust or upgrade their antenna.

I recognize that a large part of our DTV outreach efforts have been directed at at-risk communities. In particular, I commend the workshops you have held at the FCC to focus on these issues, the efforts to make publications and other information accessible to non-English-speakers and the disabled community, and the personal outreach our staff has conducted in many of these communities. But we must do more.

**Action Items:** The Commission should dedicate particular FCC staff to work with each community designated as “at-risk.” The FCC staff would be publicly identified as working with a particular at-risk community and they would be given no other responsibilities other than to work with that community on the transition. Staffers who spend full-time working with specific at-risk communities will be able to immerse themselves in the unique issues and institutions unique to these communities, build trust, and maintain close contact in a way that broader efforts cannot. Dedicating specific FCC staff to specific at-risk communities will also give those communities a single point of contact at the FCC, and provide us internally with the kind of specialized knowledge that may prove invaluable in the coming months.

In addition, the FCC should immediately implement the October 2007 recommendation (reiterated in June 2008) from its Consumer Advisory Committee to convene a working group on digital closed captioning that includes representatives from the broadcast, cable and satellite industries, consumer electronics manufacturers and retailers, and captioning providers and consumers. The working group would: (1) identify current and anticipated problems with the transmission and display of digital captioning; (2) evaluate the captioning capabilities of digital equipment; and (3) develop solutions to ensure that captions are passed through intact to the consumer.

**3. Ramp up the FCC Call Center.** While many consumers will have no difficulties transitioning to digital, others will not have it so easy. They may find installation of a converter box technically daunting or physically difficult. Or they may properly install a converter box only to find that they can no longer receive one or more stations that they were able to receive in analog. In Wilmington, 1,536 residents called the FCC or their local broadcaster or cable operator for help in the two days following the switch-over. Extrapolating from this number is dangerous, especially since: (1) the percentage of Wilmington households that rely exclusively on over-the-air service is only about *half* of the national average; (2) consumers nationally will not receive the intensive on-the-ground outreach that Wilmington residents received; (3) the relatively flat terrain in Wilmington may not reflect the reception issues that other markets will experience. Those factors would argue for a higher level of disruption nationwide. For illustrative purposes, however, and conservatively assuming that the number of calls would have increased by 50% if Wilmington had twice the number of over-the-air-exclusive households—thus tracking the national average—the total number of calls would have been 2,304—or 1.28% of the 180,000 total households in the market. Assuming 114.5 million TV households in the U.S., that could mean that 1.46 million consumers could be looking for answers when full-power analog broadcasting ends next February.

**Action Item:** The Commission should significantly ramp up its Call Center operations. Augmented front-line staff should be trained to identify the nature of consumer problems and solve them if they can. If the front-line staff cannot resolve a particular issue, they should have resources at their disposal to refer the inquiry to the proper venue. Technical staff should be on duty for specific questions about converter boxes, antennas or other issues. These staffers should have access to every government-certified converter box (and its installation instructions) on the market. I understand that something like this approach is being used to handle the calls from Wilmington, but the level of staffing and training needed to handle calls from a single market with 180,000 households is tiny compared to what will be required to handle calls from 210 markets with over 114 million households.

For consumers who need more hands-on assistance, the Commission should facilitate the development of local partnerships—*e.g.*, civic, religious, and other community groups; local fire or police departments and other public entities; local phone companies, cable companies, retailers and other businesses. FCC staff could refer appropriate cases to these entities for the kind of hands-on assistance that many consumers will need—not only prior to the transition but in its aftermath to restore any service losses as quickly as possible.

**4. Prepare comprehensive DTV contingency plans.** The February 17, 2009 deadline is a hard date. We have only one chance to get this right. We must be prepared—as much as humanly possible—for whatever occurs. There is no precedent for what we are about to do. We must create a playbook from scratch. We can learn a great deal from Wilmington and from the experiences of other countries, but the scope and scale of what will happen next February is unprecedented. The more potential problems we can anticipate and plan for, the better off we will be.

**Action Item:** The Commission should strengthen its relationship with NTIA by establishing a joint working group to coordinate and prepare detailed contingency plans for the transition, in consultation with Congress, industry, and other interested stakeholders. This working group would focus on three time periods, each of which has its own challenges—the days and weeks leading up to the transition, the transition date itself, and its aftermath.

**5. Create an online DTV Consumer Forum.** Each consumer will face a unique set of issues in transitioning to digital—we live in different communities with different topographies; we own different types of television sets, antennas and converter boxes; we possess different levels of technical and physical abilities, etc. These unique characteristics limit the usefulness of top-down, one-size-fits-all outreach which cannot address the specific situations in which consumers find themselves or help them troubleshoot as they go through this challenging process.

**Action Item:** We should establish a Consumer Forum on the FCC website for consumers confronting similar issues to talk to and learn from each other. People in the same community could discuss how to get good reception from different stations and

which local retailers have which converter boxes in stock. Consumers who have purchased converter boxes could connect with others across the country who bought similar boxes to discuss capabilities and installation issues. Individuals who have connected a converter box and are having difficulty getting reception could seek trouble-shooting advice from those who have faced similar problems. People with disabilities or non-English speakers could get advice from others who share their special needs.

The sooner we launch such a forum the sooner we can begin to develop the knowledge base. Indeed, most leading high-tech and consumer electronics companies sponsor message boards on their websites so consumers can share information about their products. While there is always a chance of inaccurate or incomplete information being posted, the benefits would far outweigh the risks. Good information will generally squeeze out bad information, and FCC staff can weigh in if misinformation is brought to our attention—just as private companies do.

**6. Educate consumers on DTV trouble-shooting, including antenna issues and the need to “re-scan” converter boxes and sets.** As the Wilmington test demonstrated, for many consumers the last steps will be the most difficult. People may have learned about the transition, researched what they need to do, obtained the government coupons, compared various converter boxes, and ultimately purchased a box and brought it home. They will hopefully have followed the instructions and connected the box to their old analog set. But when they turn the set on, they may still be unable to get a picture or they may have lost some of the channels they formerly watched in analog. Many will have no idea why or even know the right questions to ask. Do they know about the digital “cliff effect”? Do they know that some antennas are VHF-only and that many stations are moving to the UHF band? Do they know that low power stations may still be broadcasting in analog and, assuming they have purchased a converter box that will pass those signals through, how to navigate to those channels? Do they know that hundreds of stations across the country will be changing channels at the end of the transition and they may need to “re-scan” their converter box or DTV set when they wake up on February 18 in order to find the new channel locations?

**Action Item:** We should develop and disseminate trouble-shooting checklists for consumers facing these real-world issues, including re-scanning, antenna functionality and the digital “cliff effect.” Ideally, this information would be tailored to specific markets—*e.g.*, telling consumers that a particular station is changing channels on a particular date and that they may need to re-scan their converter box or DTV set, or that a particular station is broadcasting at lower power during the transition.

**7. Ensure that broadcasters meet their construction deadlines.** Consumers will only be able to receive digital signals next February to the extent that broadcasters are transmitting them. The Media Bureau’s recent report stated that 1,002 broadcasters are operating in digital with completed post-transition facilities but over 700 others are not.

**Action Item:** We must do everything we can to ensure that the stations that have not completed their post-transition digital facilities meet their deadlines. While at this point

none of these stations has said that it will not be ready by February 17, 2009, the fact that 63 of 82 stations with a final construction deadline of May 18, 2008 filed for (and received) six-month extensions does not inspire confidence and puts additional pressure on the transition's final weeks. Stations that have not fully constructed by October 20, 2008 must file another status report on that date. The Media Bureau should issue a status report within two weeks of that date on the status of the final build-out and any problems that remain.

**8. Encourage the rapid deployment of small, battery-powered DTV sets.** As consumers reminded us again during the recent hurricane preparations, small, battery-powered analog TVs generally will not work after the transition.<sup>2</sup> Yet thousands, if not millions, of people have these small battery-powered analog TVs as part of their emergency preparedness plans. I understand that the cheapest battery-powered digital television available today costs approximately \$200.<sup>3</sup>

**Action Item:** The Commission should determine where development of small, battery-powered DTV sets currently stands and work with industry to ensure that these products are on the market in sufficient numbers by the next hurricane season.

**9. Last, but by no means least, find a way to broadcast an analog message to consumers after the transition.** As we found in Wilmington, no matter how many PSAs are run or how much outreach we do, there will be some consumers who will not be prepared for the transition on February 17. These consumers need to understand what happened to their television service and where they can turn for help. In Wilmington, the local broadcasters transmitted such a message on their analog channels after the switch-over earlier this week. Of the 1,536 consumers who sought help, almost 80% called the FCC phone number provided in the broadcasters' analog message.

**Action Item:** The Commission should search for a way to broadcast an analog message for a short period (*e.g.*, two weeks) after the transition. The message would tell consumers what happened to their signals and where they can call for help. It could also provide urgent weather and other emergency information. We should develop market-by-market plans, based upon factors such as channel and transmitter availability, the presence of analog low-power stations, and industry willingness to participate. If necessary, the Commission should consider recommending a statutory change to Congress.

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<sup>2</sup> These battery-powered sets may, of course, continue to receive low-power stations still broadcasting in analog after the full-power transition date.

<sup>3</sup> One manufacturer has recently introduced an external battery pack that consumers can attach to its converter box in the event of a power outage. While this is certainly a helpful development, the battery pack will only work with a particular converter box, and many small, handheld analog sets have built-in antennas that do not have an antenna input to which a converter box can connect.