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See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

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FCC SETS RULES FOR BROADCASTERS FOR REMAINDER OF DIGITAL TV TRANSITION

Stations Must Notify Viewers of Signal Loss, Educate on Reception Issues

Stations May Terminate Analog Service Before June 12 Under Certain Conditions

Washington, D.C. – The Federal Communications Commission today sets the rules of the road for the final stage of the digital television transition, adopting policies meant to protect and prepare consumers while ensuring broadcasters have the flexibility granted by Congress to switch to digital before the final June 12 deadline.

In this order adopted to implement a law signed by the President last month that extended the final transition deadline from February 17 to June 12, the Commission takes further steps to provide an analog lifeline of vital news, public affairs and emergency broadcasts to consumers who need more time for the switch. Prompted by lessons learned after February 17, when about one-third of the nation's full power broadcasters terminated analog programming, the Commission also requires broadcasters who have yet to make the transition to educate consumers about a range of digital television reception problems that have arisen.

These issues include:

- **Signal loss:** Stations must provide on-air and other notifications of potential signal loss if 2 percent or more of their analog viewers are predicted to lose service, regardless of whether stations gain viewers in other areas.
- **Antennas:** All stations must include information about the use of antennas as part of their consumer education campaigns, including additional information if they are changing from the VHF to UHF bands and viewers may need additional or different equipment to avoid loss of service
- **Scanning:** Stations must inform and remind viewers about the importance of periodically using the rescan function of their digital televisions and digital converter boxes. During the time surrounding the conclusion of the transition, many stations will be changing the service areas and the broadcast frequencies of their digital transmissions. As a result, viewers will need to periodically rescan during this period in order to ensure that they are correctly receiving all the digital broadcast services available to them.

"The guiding principle here is simple -- consumers deserve to know the truth," said Acting FCC Chairman Michael Copps. "They will forgive a lot, but they won't forgive being lulled into a false sense that the transition will be less disruptive or less expensive than it turns out to be."

In addition to the new consumer education requirements, the order establishes procedures for stations that want to terminate analog service before June 12. To ensure an orderly transition, the Commission has already required stations that have not terminated analog service to file a binding notice of their proposed analog service termination date by March 17, 2009. Generally, stations may not terminate analog service before April 16, 2009, and must air viewer notifications for at least 30 days before they cease analog service. However, noncommercial stations experiencing significant financial hardship may terminate analog service beginning on March 27.

The Commission strengthens requirements, first adopted prior to the partial transition on February 17th, to help ensure that consumers who need more time to make the switch can continue to receive analog broadcasts of critical news, public affairs and emergency information until June 12. Affiliates of the major networks – ABC, CBS, Fox and NBC – that wish to terminate analog service prior to June 12 must ensure that at least 90% of their analog viewers will receive continuing analog service from another major network affiliate through June 12. This service may consist of continuing regular analog programming from one or more of the major network affiliates remaining on the air, or "enhanced nightlight" service, which consists of analog news, public affairs and emergency information from a major network affiliate.

If more than 10% of the analog viewers of a major network affiliate lose service from all major network affiliates, then that major network affiliate is responsible for other public interest conditions, including requirements for walk-in help centers, consumer referral telephone numbers, and DTV education and outreach. These public interest measures may be undertaken individually or collectively by the stations

The Commission provides broadcasters with additional flexibility. First, broadcasters may terminate analog service at any time of day on their final day of analog service, although they must notify the Commission of the approximate time they will terminate. In addition, the Commission eliminates the requirement for most stations to continue broadcasting DTV transition educational information after they have terminated analog service.

Action by the Commission, March 13, 2009, by Third Report and Order and Order on Reconsideration (FCC 09-19).

Docket No.: 09-17, 07-148, 07-91, 05-312

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