



**TESTIMONY OF KYLE MCCLARROW
PRESIDENT & CEO
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

on

STATUS OF THE DTV TRANSITION: 370 DAYS AND COUNTING

before the

**COMMITTEE ON ENERGY AND COMMERCE
UNITED STATES HOUSE OF REPRESENTATIVES
WASHINGTON, DC**

FEBRUARY 13, 2008

Chairman Markey, Ranking Member Stearns and Members of the Committee, my name is Kyle McSlarrow and I am President and CEO of the National Cable & Telecommunications Association. NCTA represents cable operators serving more than 90 percent of the nation's cable TV households and more than 200 cable program networks. The cable industry is also the nation's largest broadband provider of high speed Internet access after investing \$110 billion to build out a two-way interactive network with fiber optic technology. Cable companies also provide state-of-the-art digital telephone service to millions of American consumers.

One year from now, this country will embark on a dramatic change in over-the-air broadcast television. A successful transition to an all digital broadcast system will make valuable spectrum available for public safety, increase choice and competition through wireless broadband services, and deliver significant benefits to television viewers. And although this is a broadcast television transition, the hard date of February 17, 2009 represents a unique challenge, and to meet that challenge, cable has consistently committed to do its part to ensure the transition's success in two significant ways.

First, despite our firm and long-held view about the constitutional infirmities of a government-mandated regime that requires cable operators to carry all must carry broadcast stations in both digital and analog formats, we committed to this Committee that cable would provide a seamless transition for all of its consumers, analog and digital alike. As you will recall, in late 2005 we worked with this Committee on a legislative proposal which addressed the carriage of commercial must carry stations after the digital transition. While that plan passed the House, it was not included in the final version of the Deficit Reduction Act of 2005.

Since that time, Mr. Chairman, we worked with you and other Members of this Committee to craft a three year voluntary carriage commitment. The FCC last September

approved an order the outline of which mirrors our voluntary three year plan. The FCC's order is, however, deficient in one major respect. Instead of taking into account the circumstances of small systems with an exemption as this Committee did on a bipartisan basis in 2005, the FCC order largely punts this question to a further notice of proposed rulemaking.¹ This Committee has previously recognized that the imposition of dual carriage mandates on small systems adversely affects other important goals like the continued rollout of broadband to rural America. The FCC should act now to approve a simple exemption that takes into account the circumstances of operators of systems with low capacity or that serve few customers.

Mr. Chairman, our second commitment was that we would help lead, not just participate in, a nationwide consumer campaign to alert all Americans about the digital transition and educate consumers about the tools available to help manage the transition.

Together with the NAB, CEA, consumer retailers, public broadcasters, and other key groups, NCTA is proud to be a founding member of the DTV Transition Coalition established a year ago. And we remain committed to working with this Coalition and with many other consumer and interested organizations to educate the millions of Americans who will be affected by the digital transition.

In addition, last September the cable industry launched its own extensive consumer education campaign, which includes public service ads that will continue through February 2009. In fact, cable was the first industry to air such ads, both in English and Spanish, valued at \$200 million. These spots have already reached millions of cable and non-cable viewers and provided

¹ The FCC did include a process whereby operators with systems of 552 MHz or less of capacity could apply for waivers, but given the FCC's poor record on waiver requests in other contexts, this is little more than window dressing and unnecessarily burdensome.

useful information about the upcoming transition and NTIA's coupon program for digital to analog converter boxes.

But again, Mr. Chairman, our commitment extends far beyond just simply running television ads. Thus, we have already revamped NCTA's website (www.ncta.com) which now focuses predominantly on the digital transition. And we have created English and Spanish-language websites linked to our homepage that provide consumers with easy-to-understand information, advice and other information about the transition, including links to other government, consumer and industry websites focused on the transition.

In addition we have created and distributed to all of our companies a customer communication "tool kit" (www.ncta.com/dtvtransitionindustrytoolkit) which includes:

- invoice messages to be included on billing statements;
- electronic messages for digital cable boxes;
- on-screen scrolls for local origination channels;
- telephone "on-hold" messaging for customer call centers;
- sample emails to be sent to broadband customers; and
- website "banners" for MSO and network websites.

Cable companies also committed to sending educational messages and reminders about the transition to all cable customers through statements on invoices and "bill stuffers" in cable bills, including information about NTIA's coupon program. Also, as an example of our collaborative efforts with other industries, NCTA recently distributed to cable operators a 9-minute video produced by the Consumer Electronics Association (CEA) which informs consumers of their options in the DTV transition and describes its many benefits. We invited

cable systems to place this CEA video on their video-on-demand platforms, in order to provide easy access to millions of cable customers.

Our industry also plans to create local origination and on-demand programming to provide tutorials on the benefits of the digital transition, and how cable can help customers navigate through it.

I would note that many of these ideas came from Members of this Committee. And we remain open to other ideas on how we can help. Thus, we are currently working with a variety of consumer groups and grassroots organizations with varied memberships and constituencies to see how we can help through other media, such as print or other forms of communication.

Finally, with regard to concerns that have been raised regarding the inability of some NTIA certified converter boxes to pass through the signals of low power television stations and TV translators that will continue to broadcast in analog after the transition, the cable industry believes there is a straightforward solution to the problem – namely, encouraging affected consumers to obtain a digital converter box that passes through analog signals. It is my understanding that three models of the boxes have already been certified by NTIA and more are on the way.

However, according to press reports, the FCC Chairman has proposed a new and unprecedented must carry mandate for low power television stations injecting new uncertainty and potential litigation at a critical time in the DTV transition. Obligating cable operators to carry upwards of 2,800 LPTV signals – which Congress determined were not entitled to must carry unless they meet specific statutory criteria – imposes an unacceptable, unconstitutional new burden. While there is very limited must carry for some LPTV stations and hundreds are and will continue to be voluntarily carried, most LPTVs have never been carried on cable. To force

the LPTV stations on to cable, instead of making sure their over-the-air viewers can continue to receive the signals, does nothing to help the LPTV viewers at risk.

Instead, LPTV stations need to launch an information campaign to inform their viewers that they should: (1) request an NTIA voucher for a converter box and (2) make sure that they buy one of the models that pass through the analog signals. All industries and government agencies involved in the transition effort can help get the word out. And the cable industry stands ready to help in that effort.

Chairman Markey, Ranking Member Stearns, I would like to thank you, and all the Members of this Committee who have worked so hard to keep this issue in the forefront. I am proud of all that the cable industry is doing voluntarily to help ensure that the transition to digital broadcasting is a success, and I look forward to continuing to work with this Committee as we approach the date of the transition. I would be pleased to answer any questions you may have.