



**TESTIMONY OF KYLE MCCLARROW
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on

Status of the DTV Transition: 154 Days and Counting

before the

**COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET
UNITED STATES HOUSE OF REPRESENTATIVES
WASHINGTON, DC**

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Mr. Chairman, Ranking Member Stearns and Members of the Subcommittee, my name is Kyle McSillarow 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 provider of broadband Internet access after investing \$130 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.

On February 17, 2009, this country will embark on a dramatic change in over-the-air 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, as I testified in February, while this is a broadcast television transition, the cable industry has consistently committed to do its part to ensure its success in a number of significant ways.

At the outset, I would like to compliment local broadcasters, and particularly organizations like the National Association of Broadcasters (NAB) and Maximum Service Television (MSTV) who represent their interests, for their willingness to work cooperatively with us to ensure that consumers are well served leading up to and during the digital transition.

This collaboration includes the production of a handbook titled, "Cable and Broadcast Industry Coordination Reference Handbook for the Broadcast DTV Transition," which has been widely distributed to local cable operators and broadcasters. This document, authored by NCTA and MSTV, was also distributed by the American Cable Association (ACA), the National Cable Television Cooperative (NCTC), the National Association of Broadcasters and the Society of Cable Telecommunications Engineers. It provides general background information concerning

the broadcast industry's transition to digital television and a technical and operational checklist to assist television broadcasters and cable operators in preparing for coordination efforts to help facilitate the digital transition, and prepare for carriage of digital broadcast signals post transition.

Another component of this cooperation is the organization of and participation in joint cable-broadcaster coordination meetings across the country. For example, leaders of each industry appeared together this year at each other's annual conventions to stress cooperation, highlight coordination steps that should be taken, and to announce various initiatives that promote awareness of both the transition and steps consumers can take to get ready. In addition, NCTA and MSTV, with the support of ACA, NCTC, and state cable and broadcaster associations, have held joint meetings in Massachusetts, Michigan, Ohio, Texas, Oregon, West Virginia, and at the North Central Show, a regional cable meeting which includes representatives from Minnesota, North Dakota, South Dakota, and Iowa. The purpose of these meetings has been to bring together all the key players at the local level to work through the technical and logistical issues that could arise as this transition takes place. In addition, three national webinars have been held that were widely attended by cable operators and broadcasters all across the country. Weekly coordination conference calls take place with NCTA, MSTV, ACA, NCTC and NAB to discuss outstanding issues.

And I am pleased to report that in Wilmington, North Carolina, last week cable customers enjoyed a seamless transition when the local broadcasters switched early to a digital-only format. Based on reports from our member companies operating in Wilmington, the switch went smoothly and cable service was not disrupted. A great deal of credit is due to Time Warner

Cable and Charter Communications, as well as the local broadcasters, for working cooperatively to ensure the success of this early transition.

Mr. Chairman, from the very start the cable industry committed to help lead, not just to participate in, a nationwide consumer campaign to alert all Americans about the digital transition and to educate consumers about the tools available to help manage the transition. Together with the NAB, the Consumer Electronics Association (CEA), consumer retailers, public broadcasters, and other key groups, NCTA is proud to be a founding member and a Steering Committee participant of the DTV Transition Coalition established a year ago. Membership in the full Coalition has grown to more than 200, including non-profit groups, trade associations, representatives of government agencies, and a wide variety of consumer groups.

Last September the cable industry launched *Get Ready for Digital TV*, an 18-month multimedia consumer education initiative designed to inform cable customers and non-cable viewers about the broadcasters' DTV transition and how to ensure continued service to analog television sets after the transition. The centerpiece of this *Get Ready for Digital TV* initiative is a substantial commitment by the cable industry to provide \$200 million in commercial advertising time to air public service announcements (PSAs) about the digital transition. To date, NCTA member companies have already reported airing these PSAs in commercial airtime valued at more than \$151 million and we will more than meet our commitment.

As of today, eight distinct video PSAs have been produced and created by our industry in a variety of versions and lengths. These have been distributed to cable operators and programming networks by NCTA and the Cable & Telecommunications Association for Marketing (CTAM), along with media plans and guidance for their use. And to reach as many

Americans as possible, these PSAs, many of which were made in consultation with members of the DTV Transition Coalition, are closed captioned and produced in both English and Spanish.

In addition, with NCTA's encouragement, several of our member companies have created their own PSAs appropriate for their individual audiences and customer demographics. And several cable programmers, working in collaboration with CTAM, are currently producing customizable PSAs featuring network talent for use by cable operators this fall.

Beyond running PSAs, cable's commitment under the *Get Ready for Digital TV* initiative embraces a wide range of other consumer education efforts. The two industry websites, www.GetReadyForDigitalTV.com and www.prepareparatvdigital.com, launched in September 2007, explain in clear and concise language the reasons for the transition and its benefits. They also provide consumers with useful information to help them prepare for the transition should they need to take action and include an extensive list of sources of additional information, including links to the NTIA and FCC websites. Also, NCTA's website, www.ncta.com, has become a major portal to a vast array of consumer education information about the transition. The NCTA site was reconfigured to prominently feature links to websites from the FCC, NTIA, the TV Converter Box Coupon Program, and the DTV Transition Coalition. Direct links to the NCTA sites identified above provide users easy access to additional informational websites from the NAB, CEA and the AARP.

NCTA has also created and distributed a customer communication "tool kit" to all of our companies (www.ncta.com/dtvtransitionindustrytoolkit). The kit 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. This website toolkit also enables users to view NCTA's PSAs and an informational video about the digital transition produced by CEA.

We are also in the process, in collaboration with CTAM, of creating a longer-form video for use on cable's "on-demand" platform to explain the DTV transition to cable customers. Additionally, several "radio media tours" are being planned which will place DTV transition experts on both news and talk radio stations around the country, and NCTA is funding work by more than a dozen consumer groups and grassroots organizations with varied memberships and constituencies to help spread the word as widely as possible that the transition is coming.

In addition to cable's extensive education initiative, for several years cable operators have worked with this Committee to find a compromise solution to address the carriage of commercial must carry stations after the digital transition. Despite cable's 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.

As pointed out in my testimony six months ago, the Commission adopted a must carry Order last September that requires dual carriage and in many respects mirrors the three year carriage commitment we made to this Committee. That Order, however, left open the question of how to protect small cable systems from the burdens imposed by this dual carriage obligation. I am pleased to report that the Federal Communications Commission recently and unanimously took action to provide small cable systems very necessary relief from the significant cost and capacity burdens that this dual must carry requirement would have imposed. We appreciate the support for that exemption expressed by so many Members of Congress, especially members of

this Committee. Cable operators are committed to making the nation's broadcast digital TV transition a success and this relief will help ensure that all cable customers in large and small communities will continue to be able to view broadcast signals after February 17, 2009.

Mr. Chairman, one additional circumstance, however, could disrupt access to some broadcast signals and exacerbate customer confusion during the digital transition. Under retransmission consent rights which Congress granted broadcasters in the 1992 Cable Act, commercial television broadcasters (who choose not to exercise their mandatory carriage rights) can opt to negotiate over carriage of their stations. On December 31st of this year, a substantial number of retransmission consent agreements will expire. Absent an agreement with a broadcaster choosing retransmission consent, a cable operator is unable to lawfully retransmit the broadcast station and is forced to take the station off the cable system because it lacks consent. If recent history is any guide, there is a significant risk that some stations covered by existing agreements could go dark in January, just ahead of the DTV hard date on February 17th, as cable operators could lose consent to carry them.

It would not serve the public interest if consumers and cable operators were forced to contend with the potential or actual loss of broadcast stations at the same time as they were preparing for the digital transition. And it would be a particularly odd result when cable operators are doing well more than they are required to ensure carriage of must carry broadcasters' signals.

It is for this reason that cable companies have raised with broadcasters the idea of agreeing to a "quiet period" beginning before the end of this year (when most of these agreements would expire) and extending for a reasonable period after the hard date to ensure that consumers are not subjected to additional confusion and disruption. NAB itself has

acknowledged that this is a very real concern, and has proposed a very brief quiet period that begins two weeks before and extends for two weeks after February 17, 2009. But the broadcasters' proposal for a voluntary quiet period that only begins *after* the agreements actually expire, or which is too brief to preclude potentially confusing messages about broadcast carriage during the time of the actual DTV transition, represents the illusion of a commitment and does not actually prevent the very potential problem we have all identified.

We believe that all of the industries with a stake in a successful transition should go the extra mile to make sure it is successful. Temporarily foregoing the right to withdraw retransmission consent in order to preserve stability and certainty for consumers would be a small burden for broadcasters to undertake. A meaningful quiet period proposal need not disadvantage broadcasters; any new retransmission consent agreement reached after the quiet period ends would be retroactive to the date the old agreement expired. I urge this Committee to support the notion that "business as usual" isn't good enough, given the enormous amount of attention, hard work, and resources devoted to ensuring the digital transition's success.

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 all of focused on ensuring the transition's success. We 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.