

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 talk to you about the digital transition. I am mindful, as are you, that February 17, 2009 is only 16 months away. I appreciate having the opportunity to tell you what the Commission has been doing in preparation for this unprecedented event. I have a brief opening statement and then I look forward to hearing your thoughts and answering any questions you may have.

Facilitating a smooth transition is not an easy task. As all major changes tend to be, the coming transition to digital television transmission is an exciting—but complicated—revolution.

While the benefits offered by digital technology are undeniable – such as movie quality picture and sound - so are the challenges.

When I last appeared before you, I explained that a successful completion of the digital transition depends upon minimizing the burdens placed on consumers and maximizing their ability to benefit from it. After all, our highest priority is protecting the American consumer. The Commission has already taken some important steps but there is still more we need to do.

We have been working both on our own and in coordination with industry, other governmental agencies, and consumer groups to advance the transition and promote consumer awareness. Our efforts have been three-fold. First, we have been focused on getting the right policies in place to facilitate a smooth transition. Second, we have been actively enforcing our rules to protect consumers. And, third, we have been promoting awareness of the transition through our consumer education and outreach efforts.

Through all of our activities, the Commission is committed to ensuring that no American is left in the dark.

Policy Proceedings to Minimize the Burdens on Consumers

A successful completion of the digital transition depends upon ensuring that appropriate policies are in place to minimize the burden and cost borne by consumers and maximizing their opportunity to benefit from it. I would like to draw your attention to several important policy issues. First, the Commission acted to dramatically reduce the number of consumers who would need a converter box to view broadcast signals post-transition. Second, we are addressing technical issues related to the transition. Third, we are employing our authority and industry's resources to conduct a far-reaching effort to inform consumers. And, finally, it is my hope that the Commission acts to encourage and facilitate broadcasters' ability to offer additional free channels so that the DTV transition is a benefit rather than a burden to consumers.

Ensuring the Viewability of DTV by Cable Subscribers. The Commission recently 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 must-carry broadcast stations viewable after the transition, as the must carry statute requires. This action was important to ensure that cable subscribers are able to watch the same broadcast stations the day after the digital transition that they were watching the day before the transition.

With this action, we were able to significantly reduce 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 are taken care of allows us to focus all of our energies on assisting the nearly 15 million households that rely exclusively on over-the-air signals.

Resolving Technical DTV Issues. In August 2007, the Commission adopted the final DTV table of allotments. This order provided virtually all (over 99%) of full power television stations across the country with their final channel assignments for broadcasting in digital following the DTV transition. By resolving the remaining questions regarding broadcasters' allotments, the Commission helped ensure that the analog spectrum the broadcasters are vacating will be available as planned by 2009. This finality is important to ensuring a successful auction of this spectrum next year and the timely use of this spectrum for public safety and expanded wireless competition and innovation. Notably, 95% of all television stations are now broadcasting in digital.

DTV Consumer Education. In April 2007, the Commission adopted a *Labeling Order* that requires retailers to fully inform consumers about the DTV transition date at the point of sale. The Commission found that, at the point of sale, many consumers were not aware that analog-only TVs would not be able to receive over-the-air-television signals without the use of a digital-to-analog converter box after February 17, 2009. Accordingly, the Commission required sellers of television receiving equipment that does not include a digital tuner to disclose at the point-of-sale that such devices include only an analog tuner and therefore will require a converter box to receive over-the-air broadcast television after the transition date.

In addition to the *Labeling Order*, and at the suggestion of Chairmen Dingell and Markey, we recently 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. I commend the industry for the recent consumer education campaigns that they have initiated. I believe that more can be done. I have circulated a proposal to my colleagues that requires broadcasters to use PSAs and screen crawls throughout the day 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. I hope and expect that the Commission will be able to adopt this *DTV Education Order* quickly.

Facilitating Multicast Broadcast Opportunities. Finally, I believe that one policy action in particular could fundamentally change for the better the course of the digital transition. The idea is simple: broadcasters should be able to, and be encouraged to, use the digital spectrum they already have to send multiple television signals to consumers for free.

Let me give you an example of what I am talking about. Right now, a broadcaster using analog technology transmits one programming stream, which we think of as a television channel. But with digital spectrum, technology enables broadcasters to put out not just one programming stream, but several. So, a broadcaster could broadcast 2 or 3 channels of programming all at the same time (i.e., a movie channel, a 24-hour news channel and a sports programming channel) with no additional cost to the consumer or need for additional spectrum. In short, multicasting enables broadcasters to provide more free television programming to consumers.

I believe that the ability to view new broadcast channels would facilitate the transition by providing people with an incentive to get a converter box. As things stand today, over-

the-air consumers must purchase a converter box (or buy a digital TV) just to maintain the status quo. They have the burden of purchasing new equipment just to ensure that their televisions will not go dark the day after the transition. Consumers will only gain in terms of new and improved services if they buy new expensive HDTV's. This burden that the digital transition places on consumers is probably why a majority of those aware of the transition think that the government is on the "wrong track" according to a recent APTS survey. The message that we have been sending is simply not appealing -- you need to buy a new box, or you'll lose TV altogether.

But what if instead the message to consumers was, "If you get a new digital television or a converter box, you will be able to watch a wide array of new free programming?"

Then what was a burden for consumers becomes a meaningful benefit. The opportunity to enjoy more programming choices would give consumers an actual incentive to be excited about adopting digital technology. And, the faster that this technology is in consumers' homes, the less chance there is that Americans will be left in the dark after the digital transition.

This proposal is how it worked in Germany. In Berlin, the opportunity to receive more free channels drove people to proactively purchase converter boxes instead of viewing the need to do so as a burden imposed by their government. Before the transition, over the air viewers in Berlin received only 12 channels. After the transition, they received 27, more than twice as many. A German government report analyzing the transition concluded, "the switchover resulted in less protest than had been anticipated," in part

because of “[t]he added value of receiving more services.” (Berlin Goes Digital, http://www.mabb.de/bilder/Projektbericht_engl.pdf.) I believe that what worked in Germany could work here as well.

The only way we can make this a reality, however, is if the cable companies are required to carry these additional channels. And, as is the case today, cable operators should be required to carry this free programming. In regulatory lingo this is called “multicast must carry.” To date, the FCC has not required them to carry anything beyond a broadcaster’s main signal. But as the courts have recognized, cable carriage is necessary for broadcast channels to survive. Today, there simply is not an economic model by which a broadcaster can support a free programming stream that reaches only over-the-air households. As a result, without the guarantee of cable carriage, broadcasters are not able to invest in creating a second or third free programming stream.

About 16 months ago, I circulated a proposal to my colleagues that would facilitate multicasting and require cable companies to carry these multiple streams of free programming to consumers. Unfortunately, this item remains pending today.

Nevertheless, I remain hopeful that a majority of Commissioners will realize the potential this item has to minimize the burden that the DTV transition places on consumers and allow Americans to realize the full benefit of the digital transition.

Enforcement Activities

The Commission's DTV-related enforcement efforts have focused on protecting consumers from the unknowing purchase of television equipment without integrated digital tuners. 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 October 15, 2007, inspected nearly 1280 retail stores and websites and issued nearly 280 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). When I testified before you in July, I mentioned that NALs were pending against seven large retailers for apparently violating the Commission's labeling requirements. These fines, in the aggregate, total over three million dollars. Since that time, we have circulated NALs to an additional seven retailers, totaling over \$500,000. In addition, the Enforcement Bureau has issued another six NALs on delegated authority. 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. In May 2007 we 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 we are working on a forfeiture order with respect to the other company. In addition, we are in the process of investigating potential violations against another two companies. I hope to quickly bring these matters to resolution. Although we continue to monitor importation logs and otherwise look for potential violations, we have not yet found any potential violations beyond these four companies.

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. This past July, 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 have circulated NALs against three manufacturers, totaling over \$11 million.

Swift enforcement of all our DTV-related rules is critical to protecting consumers and our activities in this area will continue to be a priority during the next 16 months.

Consumer Education and Outreach

In addition to our policymaking and enforcement activities, the Commission has been actively promoting consumer awareness of the upcoming transition through education and outreach efforts. Our overarching goal in these activities is to reach consumers who are likely to be unaware of the upcoming digital transition, including: 1) senior citizens; 2) non-English speaking and minority communities; 3) people with disabilities; 4) low-income individuals; and 5) people living in rural and tribal areas.

We have been employing a variety of methods to reach these communities. Specifically, we have been focusing our resources on three primary activities: attending conferences and hosting events, disseminating information via the news media, and partnering with industry, consumer, and other groups.

Conferences and Other Events. With respect to conferences and events, Commission staff has been attending as many conferences as possible to distribute DTV educational materials. For example, in the last few months we have attended and/or participated in 30 conferences including AARP's national convention, National Council of La Raza's national convention, Telecommunications for the Deaf and Hard of Hearing, Inc.'s biennial conference, and the National Association of Black Owned Broadcaster's convention. And, earlier this month, I spoke about the digital transition at the Technology Summit on DTV that was part of the Congressional Hispanic Caucus Institute

Conference. We plan to attend and participate in at least 30 more events and conferences to provide information about the digital transition this year.

We are also utilizing the agents in the Commission's field offices around the country to expand the scope of our consumer education efforts. Designated representatives in each of our 24 field offices have been targeting communities that risk getting left behind in the DTV transition, such as senior citizens. Our field agents have been distributing information materials to senior centers, libraries and other venues. They then follow up these visits by giving DTV presentations to further inform these communities.

Through the work of our field agents, we are able to reach consumers in a total of 36 states – ranging from Alaska to Florida. We have already distributed information to over 1100 senior centers, senior organizations, and community groups and given nearly 50 presentations. We anticipate providing information to over 2000 organizations and making more than 350 DTV presentations by the end of the year. In addition to these “DTV Awareness Sessions” that the field agents are conducting in 36 states, other members of Commission staff are holding similar sessions in particular communities around the country. For example, we recently held a DTV Awareness session in Harlem, NY in partnership with the Harlem Consumer Education Council and we have over 10 more similar events planned this year in different states.

I also believe it is useful to coordinate with the groups representing the communities we are targeting. For example, last July we hosted, along with Native American Public

Media, an Indian Telecommunications Initiative Regional Workshop that focused on the digital transition. And, more recently, we held a DTV Workshop at Commission headquarters where we announced that we would host five additional events. Each of our upcoming workshops will be focused on a specific consumer segment that has been identified as being likely to be disproportionately impacted by the transition and least aware of it. These communities include the senior citizens, minorities and non-English speakers, people with disabilities, low-income individuals, and those living in rural and tribal areas. Through a series of workshops in the upcoming months, we will specifically focus on how we can best reach and educate these groups of consumers. We have already announced dates for the first two of these workshops. On November 8, 2007, we will host a workshop dedicated to reaching senior citizens, and on December 4, 2007, we will host a workshop geared towards reaching non-English speaking and minority communities.

We received several helpful suggestions from the workshop that we held last month. For example, we were asked to coordinate our consumer education materials with consumer groups before releasing them. We were also asked to take into the account the needs of people with disabilities in our outreach activities. We are already working to implement these and the other ideas that came out of our workshop. Receiving input such as this is important to facilitating a smooth transition. I hope that these additional workshops will help provide additional new ideas and enable us to strengthen existing partnerships and forge new ones.

News Media Activities. We are also working with the news media to highlight the upcoming transition in ongoing news coverage. Specifically, we are coordinating with a variety of media outlets including newspapers, broadcasters, and working with various members of the industry on public service announcements (PSAs).

Our efforts focus primarily on media that target specific at-risk populations. For example, senior citizens and Hispanic consumers, among others, are most likely to be disproportionately impacted by the transition. With respect to communicating with seniors, I was recently interviewed about the transition on AARP radio which is heard on over 170 outlets nationwide and has a listenership of over 1,000,000 people. Similarly, I gave an interview to the AARP Magazine which is running a story on the digital transition for its early 2008 issue. And, I also gave an interview to Erickson Tribune, a publication that reaches nearly 6 million seniors, for its story on the digital transition. I am also scheduled to be doing a PSA with Retirement Living TV, which targets its programming to senior citizens and reaches nearly 30 million homes nationwide.

Commission staff has also given interviews about the digital transition to various Hispanic media outlets. For example, the Hispanic Communications Network, which produces media campaigns for radio, television, print and Internet, taped an interview with Commission staff that will be distributed to its 230 member radio network in the United States and Puerto Rico. In the next few weeks, I will be doing an interview about the transition with Hispanics Today, the television network for the U.S. Hispanic

Chamber of Commerce. This program is broadcast nationally on the local NBC affiliate on 165 television stations, covering 84% of the Hispanic market.

And, we will soon be doing an on-air interview on the digital transition for Univision's national morning news program that will air nationally. This interview will be done with a Commission staffer recently hired to spearhead the Commission's digital television outreach to the Hispanic community.

Government, Industry, and Consumer Group Partnerships. The partnerships we have formed, and will continue to form, are a critical part of our consumer education and outreach efforts. We rely on these partnerships – which may be with government agencies, industry or consumer groups – to help us disseminate DTV education information and to inform us of event and conferences that are taking place where we can distribute materials and interact with consumers directly.

For example, we are working closely with NTIA on various transition-related issues. The Commission's Laboratory is providing technical review and testing services in support of NTIA's digital-to-analog converter box coupon program. This cooperation led to the recent approval of the first two DTV converter boxes.

We are also working with the U.S. Administration on Aging, which has a network of over 650 state and area agencies on aging, tribal elder organizations, and thousands of providers around the country who work with seniors and their caregivers on a daily basis. We are not only providing this network with DTV informational materials that can be

distributed nationwide, but we have also offered to partner with them to conduct joint presentations on the DTV transition throughout the country. Similarly, we are working with the Bureau of Indian Affairs which has agreed to disseminate DTV information packets to their members through their 50 offices nationwide.

Our government partnerships are not limited to the national level, however. We have contacted nearly 125 local Chambers of Commerce covering all 50 states and the District of Columbia as well as state and local-level consumers affairs and elderly departments. We have asked these organizations to help us distribute DTV information materials and link to www.dtv.gov on their webpage. We intend to continue pursuing such relationships to reach as many consumers as possible.

In addition to our government partnerships, we are partnering with the industry and consumer groups in a variety of ways. For example, we are a member of the DTV Transition Coalition. We have contacted nearly 250 organizations about the transition, asking how we can work with them to get the word out, and forwarding DTV informational materials. These include entities representing a host of communities ranging from veterans, to minorities, to schools.

Similarly, we have provided DTV outreach materials to our database of over 3,200 small business entities and other parties, including small, minority, and women-owned businesses. We send DTV information to our partners, explore opportunities for creating meaningful outreach strategies, and have worked to establish over 100,000 links to our www.dtv.gov website.

Another example of how we are coordinating with other entities is the two advisory committees – the Consumer Advisory Committee (CAC) and the Intergovernmental Advisory Committee (IAC) – that we recently chartered and instructed to focus their current terms on the digital transition. The CAC recently submitted recommendations to the Commission in our DTV Education proceeding. Though the work of these committees, the Commission will gain valuable insights that will further its goal of ensuring that all consumers are aware of the transition.

We also continue to work on updating our consumer educational materials. For example, we recently released a new consumer advisory geared to provide information to persons with disabilities. This advisory explains how closed captioning works with digital-to-analog converter boxes. In this regard, I would like to mention that the Commission recently created a dedicated email box, closedcaptioning@fcc.gov, for inquiries relating to closed captioning. I hope this will make it easier for people with disabilities to get answers to the closed captioning questions they may have as the DTV transition progresses.

And, of course, all of our DTV materials, including this one, are readily available on our www.dtv.gov website or by calling our toll-free consumer line: 1-888-CALL-FCC.

Finally, last June we sent a package of DTV education materials to each of the 535 Congressional offices for members to distribute to their constituents. We recently

followed up on this communication by sending over additional materials and offering to make Commission staff available to participate and make DTV presentations at any local town hall meeting or other outreach events that members have planned with their constituents.

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 will continue our three-pronged approach – policymaking, enforcement, and consumer outreach – during the next 16 months. 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 Commission has already taken some important steps but there is still more that we need to do. The next 16 months will undoubtedly be challenging. Nevertheless, it is my hope that, with the right policies in place, American consumers will reap the rewards that the digital transition has to offer.