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Proposed Digital TV Consumer Education Initiatives

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From: Peter Gutmann

The Federal Communications Commission has issued a *Notice of Proposed Rulemaking* seeking comment on a number of initiatives to educate consumers about the digital television transition.

Facing the Congressional deadline of February 17, 2009 for the end of analog television broadcasting, the Commission is exploring additional DTV outreach efforts. Its *Notice* was prompted by a May 24, 2007 letter from John Dingell, Chairman of the House Committee on Energy and Commerce and Edward Markey, Chairman of its Subcommittee on Telecommunications and the Internet. The letter expressed concern that a present lack of federal leadership is jeopardizing the transition and urged the FCC to exercise its responsibilities by implementing a national consumer education campaign. The letter contained many specific suggestions, which the Commission's *Notice* conveys. However, the Commission further seeks comment as to whether it has authority to implement the proposals at all, whether they are likely to be effective and, if so, how best to implement them.

The specific ideas are as follows:

- **Broadcaster PSAs** – The Commission suggests that televised public service announcements will be the most effective and efficient way to reach over-the-air viewers about the coming digital switch-over. The Commission wishes to explore the content of such announcements, their scheduling and frequency, whether all licensees should face similar requirements, whether the Commission should produce the announcements or only provide an outline of mandatory points, and the types of text, rolling scroll or images to include.
- **Monitoring** – The Commission seeks to determine how best to track the effectiveness of outreach efforts, whether through formal assessment studies or certifications or reports by broadcasters, and the type of mechanism that would be appropriate to adjust requirements to reflect the result of ongoing assessment. The Commission further raises the prospect of forfeitures for non-compliance. Finally, the Commission proposes the establishment of a dedicated helpline or other targeted assistance to respond to specific consumer questions.
- **Reporting** – Chairman Dingell's letter asks the Commission to consider requiring broadcasters to provide detailed reports, every 90 days, of their consumer education efforts, including the time, frequency and content of each public service

announcement that was aired. The Commission seeks to explore the burdens of such reporting, especially upon small broadcasters and non-commercial stations, and suggests the possibility of a certification requirement instead. The Commission also seems hesitant to impose the burden of filing and to incur the onus of reviewing reports, and suggests that placing reports in the public file or posting them on web pages might suffice. In such instances, though, the Commission asks how it might best monitor and enforce whatever reporting requirement might be adopted.

- **MVPD Customer Bill Notices** – The letter further suggested that all multi-channel video programming distributors insert periodic notices in bills to inform customers about the transition and future viewing options. Here, too, the Commission seeks to explore the content and frequency of such notices and the role it might play in prescribing a standardized text.
- **Consumer Electronics Manufacturer Notices** – Citing the letter, the Commission proposes that information would be provided with television receivers and “related” devices (possibly to include VCRs, DVRs and DVD players). The Commission questions what information would be appropriate to include in such notifications, and asks whether the notices must be written and physically packaged with each unit or made available, either in writing or verbally, at the point of sale.
- **Consumer Electronics Retailer Training and Education Reporting** – The Commission anticipates that the National Telecommunications and Information Administration will have primary responsibility for the distribution of set-top converter boxes, especially with respect to the coupon program that is intended to absorb or defray their cost. The letter had suggested that the Commission work with NTIA to monitor and penalize retailers for lapses in employee training and consumer information plans relating to the coupon program. In a related matter, the Commission has already issued many notices of violation and fines to retailers (including on-line distributors) for analog sets which had not included sufficient warning to consumers that the sets would be unable to receive off-the-air signals following the digital transition.
- **The FCC’s Digital Television Website** – The Commission has established a website listing more than 50 “partners” who are committed to public consumer outreach efforts. These include broadcast networks, group owners, cable systems, DBS distributors, manufacturers, retailers, program guide publishers and other potential sources of consumer information. The letter asked the Commission to require these partners to report their specific consumer outreach efforts. The Commission questions the amount of detail to be required in such reports, the extent to which their content would be made public, and whether a penalty beyond delisting would be appropriate for failures to comply.
- **Other Proposals** – Finally, the Commission seeks comment on a number of other proposals in the letter, including the establishment of advisory groups to consult with state and local governments, low income assistance program providers, educational

institutions and other interested parties and to provide ongoing advice to the Commission. It also seeks to explore conducting targeted outreach to low-income groups, minority-owned businesses and disability rights organizations, and requiring 700 MHz auction winners to engage in specific consumer outreach efforts.

In a separate statement, Commissioner Adelstein expressed frustration that it took “more than a little nudge” from Congress to prompt Commission action and urged the creation of a Federal DTV Transition Task Force to develop a unified, coherent approach for the remaining time. Commissioner Copps also issued a statement noting that a recent study indicated that 61% of American consumers remained completely unaware of the transition and stressing the importance of avoiding a public backlash from a belief “that this is something the government is doing *to* them rather than *for* them.”

The Commission is requesting comments within 30 days after its *Notice* is published in the *Federal Register* and replies 15 days after that. If you would like a complete copy of the Commission’s *Notice of Proposed Rulemaking*, or wish to discuss any aspect of these proposals, please be sure to let us know.

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