

Congress of the United States
Washington, DC 20515

October 22, 2008

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

The Honorable Meredith A. Baker
Acting Assistant Secretary for Communications and Information
National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Chairman Martin and Assistant Secretary Baker:

Last month, we urged the Federal Communications Commission (FCC) to endorse a retransmission consent “quiet period” that would begin before the end of this year and extend for a reasonable period after the digital television transition, during which neither broadcasters nor subscription TV operators could pull over-the-air signals from the channel lineups of cable and satellite customers. At that time, we expressed concerns that dropped signals, as a result of broadcast carriage disputes, could needlessly confuse cable and satellite customers and interfere with the transition.

In the last week, the National Telecommunications and Information Administration (NTIA) made known that they detected an “uptick” in consumer demand for digital-to-analog converter box coupons in the markets affected by the recent retransmission consent dispute between LIN TV and both Time Warner Cable and Bright House. It is concerning that some of these coupon requests could have come from confused Time Warner Cable and Bright House customers who might not need converter boxes, and very likely would not have applied for coupons but for the fact that LIN TV’s broadcast signals were dropped.

The type of confusion that appears to be the result of broadcast carriage disputes can put unnecessary demand on NTIA's coupon program. It is still unclear whether the program has adequate funding to meet the demands of households legitimately in need of coupons. Among the many lessons from the Wilmington, N.C. test market, we learned that the demand for digital-to-analog converter box coupons from non-pay TV service households far exceeded government expectations. According to published reports, in this "first to digital" market, the NTIA estimated there would be 13,759 broadcast-only homes, yet 19,187 homes applied for coupons, certifying they did not have cable or satellite TV, an increase of nearly 40% over what had been expected. As public stewards, we have a duty to ensure that the coupon program has adequate funding to meet the demands of all households that actually need a converter box, but we also must be vigilant in avoiding waste in all elements of the coupon program.

To get a better sense of the true impact of station blackouts caused by retransmission consent disputes on the government's coupon program, we ask that the NTIA provide coupon request data from the areas affected by the retransmission consent dispute between LIN TV and both Time Warner Cable and Bright House. These markets include, Austin, TX; Buffalo, NY; Columbus and Dayton, OH; Ft. Wayne, Indianapolis and Terre Haute, IN; Green Bay, WI; Mobile, AL; and Springfield, MA. For the purpose of comparison, we also ask for the corresponding nation-wide coupon request data. We ask that this data provided include requests from one month before and all days after October 2, 2008 (the date that LIN TV's broadcast stations were dropped)

It is clear there has been an increase in the number of coupon requests in these affected markets; we seek NTIA's analysis to determine the extent of the increase and to get a clearer picture of a likely relationship between the increase and retransmission consent disputes. To the extent a disproportionate increase in requests for coupons is seen in the areas where broadcast signals were pulled, we believe this to be evidence in support of our concern that station blackouts resulting from broadcast carriage disputes in the months before and after the transition would lead to confusion among consumers, particularly those with pay television service.

Even if significant portions of the coupon request increases are not a result of confusion over the transition, but rather a result of cable customers simply motivated by the signal losses to request their government subsidized converter box, those requests are affecting the transition by putting needless strain on NTIA's coupon program, and should be taken into account when the Commission is considering what an effective "quiet period" should be.

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All parties involved agree that we should remove as many variables as we can from the transition to ensure it goes as smoothly as possible. Most parties also agree that some form of a "quiet period" should be put in place to neutralize the variable of retransmission disputes, the potential signal disruptions and confusion that can result, as incidents such as this demonstrate. It stands to reason then if a "quiet period" is to be effective, it must begin prior to December 31st, when a substantial number of retransmission consent agreements will expire and extend through March 1st.

The transition will be difficult enough without burdening consumers and government agencies with this additional issue. We again strongly urge you to support a meaningful quiet period that would alleviate confusion and greatly help the digital transition to succeed. We look forward to hearing from you in the near future and working with you to address this issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anna Eshoo", written over a horizontal line.

Anna G. Eshoo
Member of Congress

A handwritten signature in blue ink, appearing to read "Nathan Deal", written over a horizontal line.

Nathan Deal
Member of Congress

cc: The Honorable Michael J. Copps
The Honorable Jonathan S. Adelstein
The Honorable Deborah Taylor Tate
The Honorable Robert M. McDowell

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