

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of the DTV Delay Act)	MB Docket No. 09-17
)	
DTV Consumer Education Initiative)	MB Docket No. 07-148
)	
Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion To Digital Television)	MB Docket No. 07-91
)	
Implementation of Short-term Analog Flash and Emergency Readiness Act; Establishment of DTV Transition "Analog Nightlight" Program)	MB Docket No. 08-255
)	
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands)	WT Docket No. 06-150
)	
Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules)	WT Docket No. 06-169
)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band)	PS Docket No. 06-229
)	
Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010)	WT Docket No. 96-86
)	

To: The Commission

**COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS AND
THE ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC.**

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EXECUTIVE SUMMARY

The National Association of Broadcasters (“NAB”) and the Association for Maximum Service Television, Inc. (“MSTV”) (together, “NAB/MSTV”) submit these comments in response to the Commission’s *Second Report and Order and Notice of Proposed Rulemaking* implementing the DTV Delay Act. Congress intended the Act to allow additional time for consumers to prepare for the transition from analog to all-digital broadcasting. In implementing the Act, the Commission should work to adopt consumer education, viewer notification, and analog termination rules to maximize the value of the additional time afforded by Congress. Rules that do not recognize the lessons learned from prior analog terminations, or that fail to reflect the special circumstances of all-digital or mixed analog/digital markets, will result in consumer confusion and viewer fatigue, thereby reducing the benefits of Congress’ action.

In our comments, NAB/MSTV present minor modifications to existing or proposed rules that we believe will maximize viewer awareness and preparedness and facilitate a smooth transition for viewers of stations that will transition on June 12 or earlier. Specifically, we urge the Commission to:

- (i) waive or significantly reduce consumer education requirements for stations upon their transition to all-digital (including those that have already made the switch);
- (ii) preserve the flexibility intended by Congress in adopting rules and policies governing early analog termination;
- (iii) modify the 100-day countdown requirement to avoid confusion and viewer fatigue; and
- (iv) retain the current flexibility in the content of the 30-minute informational program.

NAB/MSTV also supports the Commission's goals of enhancing consumer education concerning rescanning and changes in coverage. NAB is producing an additional rescanning spot that stations may use for this purpose, and has identified some potential language stations can use to educate viewers about changes in coverage. Of course, education about potential losses in service must strike the appropriate balance between educating affected viewers and alarming unaffected viewers. Broadcasters should be afforded the flexibility to determine the best means of communicating this message.

By maintaining its consumer-oriented focus and affording broadcasters the flexibility needed to tailor their messages according to the needs of their own viewers, the Commission will maximize the value of the additional time afforded by the DTV Delay Act. NAB/MSTV and the nation's broadcasters will continue working with the Commission and our partners in government, industry, and local communities to ensure that remaining viewers are ready to enjoy all the benefits of free over-the-air digital broadcasting.

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The National Association of Broadcasters (“NAB”)¹ and the Association for Maximum Service Television, Inc. (“MSTV”)² submit these comments in response to the Commission’s *Second Report and Order and Notice of Proposed Rulemaking (“Report and Notice”)*³ implementing the DTV Delay Act.⁴ We recognize and appreciate that the Commission is under a stringent statutory deadline to take final action in this proceeding, and have therefore confined our comments to a limited number of recommendations that we believe will maximize viewer awareness and preparedness and facilitate a smooth transition. As discussed in detail below, NAB/MSTV urge the Commission to: (i) waive or significantly reduce consumer education requirements for stations waive or significantly reduce consumer education requirements for stations upon their transition to all-digital broadcasting (including those that have already made the switch); (ii) preserve the flexibility intended by Congress in adopting rules and policies governing early analog termination; (iii) modify the 100-day countdown requirement to avoid confusion and viewer fatigue; and (iv) retain the current flexibility in the content of the 30-minute informational program.

NAB/MSTV also supports the Commission’s goals of enhancing consumer education concerning rescanning and changes in coverage. NAB is producing an additional rescanning spot that stations may use for this purpose, and has identified

¹ The National Association of Broadcasters is a trade association that advocates on behalf of more than 8,300 free, local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the Courts.

² MSTV is a nonprofit trade association of local broadcast television stations committed to achieving and maintaining the highest technical quality of the local broadcast system.

³ *Implementation of the DTV Delay Act*, Second Report and Order and Notice of Proposed Rulemaking, MB Docket Nos. 09-17 *et al*, FCC 09-11 (rel. Feb. 20, 2009).

⁴ DTV Delay Act, Pub. L. No. 111-4, 123 Stat. 112 (2009) (the “DTV Delay Act” or “Act”).

some potential language stations can use to educate viewers about changes in coverage. Of course, education about potential losses in service must strike the appropriate balance between educating affected viewers and alarming unaffected viewers. Broadcasters should be afforded the flexibility to determine the best means of communicating this message.

I. Introduction

As the Commission has observed, the DTV Delay Act was intended to allow additional time for consumers to prepare for the transition from analog to all-digital broadcasting.⁵ NAB/MSTV share the goals of the Administration, Congress, and the Commission to ensure that no American viewer is left behind in the transition to digital-only broadcasting due to a lack of information. For more than two years, the broadcast industry has been engaged in an unparalleled and unprecedented consumer education campaign which includes “DTV Action” television spots, local speaking engagements, informational Web sites, a nationwide road show and a variety of other grassroots initiatives.⁶ Valued at over a billion dollars, the campaign already has reached nearly all television viewers and generated over 132 billion audience impressions.⁷ Broadcasters

⁵ *Report and Notice* at ¶ 1.

⁶ Detailed information about the NAB’s consumer education campaign can be found in our quarterly reports and other filings in the Commission’s *DTV Consumer Education Initiative* proceeding. See, e.g., Letter from David K. Rehr, NAB President and CEO, to Acting FCC Chairman Michael J. Copps, MB Docket No. 07-148 (filed Jan. 26, 2009); *DTV.gov Transition Partners Quarterly Report of NAB and the Association of Maximum Service Television (MSTV)*, MB Docket No. 07-148 (filed Jan. 12, 2009).

⁷ Impressions: The number of times an advertising schedule is seen over time. The number of gross impressions may exceed the size of the population since audience members may be duplicated. Webster, James G., Phalen, Patricia F. and Lichty, Lawrence W. (2000). Ratings Analysis The Theory and Practice of Audience Research (2nd ed.) Mahwah, NJ: Lawrence Erlbaum Associates.

value their longstanding partnerships in this effort with related industries, concerned grassroots organizations and governmental entities including the Commission.

Stations take very seriously the responsibility to ensure viewer awareness and preparedness. A recent NAB survey of 523 station respondents representing 575 television stations found that nine of out 10 had conducted at least one analog shut-off test to help viewers determine if their television sets are digital-ready, with more than half conducting three or more such tests.⁸ Local broadcasters have also provided critical information to their viewers about how to upgrade to DTV: nearly 100 percent of respondents promote the converter box coupon program across multiple platforms, including news programs (99%), telephone (97%), station's Web site (100%) and local speaking engagements (96%).⁹ Ninety-eight percent of respondents provide information about converter box installation by phone and 95 percent provide this information through speaking engagements.¹⁰ Nine out of 10 station respondents address the need to rescan converter boxes when answering viewer phone calls and through speaking engagements, and over 80 percent provide rescanning information on their Web sites.¹¹

The creative leadership of broadcasters and our partners is generating high levels of viewer awareness of and preparedness for the DTV transition. According to a January 2009 national telephone survey of 2,650 households, more than eight out of 10

⁸ DTVAnswers.com, *NAB Poll: 9 out of 10 Stations Have Conducted DTV Consumer Readiness Tests*, press release (Feb. 13, 2009). The survey was conducted from January 29 – February 10.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

American households that will be most impacted by the impending switchover to digital television have taken action to ready their homes.¹² Specifically, the survey found that 82 percent of over-the-air television households have taken steps to prepare for the transition by learning more about their options in getting DTV, applying for a converter box coupon or completing their upgrade to DTV. Among over-the-air households who are currently receiving digital signals, 76 percent reported an improvement in the quality of their television reception. Awareness of the DTV transition is virtually universal, with 97 percent of all households either aware that television is switching to digital, knowledgeable that the transition will impact over-the-air signals, or able to identify the correct transition date.¹³

The positive picture painted by this survey data is also borne out by the public reaction to the analog shutoff of 421 stations on February 17, 2009. The FCC's call center fielded 27,764 calls that day, a tiny fraction – 0.2 percent – of the estimated 12.4 million exclusively over-the-air households in markets where at least one station turned off its analog signal.¹⁴ Defying expectations that call volume would increase the following day,¹⁵ the number of calls steadily declined, with only 25,320 calls on Wednesday, February 18, and 17,920 calls on Thursday, February 19.¹⁶ Only a handful

¹² DTVAnswers.com, *New Poll Finds 8 of 10 Broadcast-Only Households Have Taken Steps to Prepare for Digital TV Switch*, press release (Feb. 5, 2009). The poll was commissioned by NAB and conducted by SmithGeiger, LLC.

¹³ *Id.*

¹⁴ DTVAnswers.com, *Initial Reports Indicate Low Call Volume Following Feb. 17 Digital TV Switch*, press release (rel. Feb. 18, 2009).

¹⁵ FCC, *DTV Call Centers Field over 28,000 Calls Tuesday: Volume Expected to Increase Today*, press release (rel. Feb. 18, 2009).

¹⁶ FCC, *Total DTV Calls to 1-888-CALLFCC as of February 19*, press release (rel. Feb. 20, 2009).

of callers dialing in on February 18 expressed a lack of awareness of the date of the transition, its impact on the stations they watch, or the transition in general (i.e., 2.2%).¹⁷ FCC call center and NAB survey data shows that most viewer questions of their local stations concerned converter boxes and rescanning – issues that were resolved over the phone.¹⁸ Stations surveyed received an average of 50-200 calls.¹⁹ Stations transitioning on February 17 served a variety of populations, including consumers in rural areas that were expected to be less informed about or prepared for the transition, even though they are heavily reliant on over-the-air broadcasting.²⁰

Recent experience demonstrates that the efforts of broadcasters and our partners in related industries, government, and local communities are working effectively. In implementing the DTV Delay Act, the Commission should ensure that these groups can continue building on their progress to prepare viewers across the country. Populations in local markets differ dramatically, from the number of over-the-

¹⁷ FCC, *Initial Phase of DTV Transition Encouraging: Large Challenges Remain*, press release (rel. Feb. 19, 2009) at Attachment.

¹⁸ DTVAnswers.com, *Initial Reports Indicate Low Call Volume Following Feb. 17 Digital TV Switch*, press release (Feb. 18, 2009).

¹⁹ *Id.*

²⁰ See, e.g., FCC, *Preparations in High Gear for Stations Going All-Digital This Week*, press release (Feb. 16, 2009) at 2 (“[o]utreach continues to be targeted to consumers most at risk” including “people living in rural and tribal areas”); *Consumer Advisory Committee—Announcement of Rechartering and Re-appointment of Members and Chairperson*, Public Notice, DA 08-2817 (rel. Dec. 30, 2008) (“the Committee will continue to provide valuable insights that will further the Commission’s goal of ensuring that all consumers, especially seniors, low-income, minority consumers, non-English speakers, people with disabilities and people living in Tribal and *rural* areas, are aware of the transition and the specific steps they need to take..”); Written Testimony of FCC Chairman Kevin J. Martin Before the U.S. House of Representatives, Committee on Energy and Commerce, Subcommittee on Telecommunications and the Internet, 2008 WL 2357232 at 15 (June 10, 2008) (discussing special outreach to rural areas and citing a survey that showed a greater lack of awareness about the transition among rural respondents as compared to urban respondents).

air households, to income and other demographics, to language and local culture. Broadcasters' extensive experience in determining what will best resonate with their audiences should be utilized to inform the messages they craft and deliver to viewers.

As discussed more specifically below, the public interest will be best served, and congressional intent as expressed in the DTV Delay Act appropriately implemented, by allowing stations the flexibility to address the particular needs of their local markets and to continue their digital transitions between now and June 12. Because hundreds of stations have already successfully transitioned to digital, one-size-fits-all rules governing the transition of the remaining stations would be inappropriate and, indeed, ineffective. Particularly in light of the now staggered transition that differs from market to market and station to station, rigid consumer education and other DTV-related transition rules will not serve the public interest. In fact, there is real concern that imposing uniform rules on all stations and markets across the country will only result in increased consumer confusion and dissatisfaction.

NAB/MSTV therefore propose that the Commission adopt different consumer education requirements for stations that have already switched from those that have yet to switch. In short, it makes little sense to require digital-only television stations to continue to air DTV education spots and crawls when those education efforts will not reach affected analog viewers and will merely serve to confuse and annoy viewers that are already receiving digital television. Our comments first address consumer education requirements for stations that have already transitioned to digital and second, the rules of the road for stations that have yet to terminate analog transmissions.

II. For Stations That Terminated Analog Transmissions On or Before February 17, the Commission Should Prescribe Alternative Consumer Education Requirements Consistent With Differing Market Circumstances

In the *Report and Notice*, the Commission makes a number of appropriate adjustments to the DTV Consumer Education requirements to reflect the change in the national transition date from February 17 to June 12. The Commission also correctly acknowledges that the DTV Delay Act, “unlike the Act establishing the original hard deadline, which left early transitions completely to the discretion of the Commission ... expressly contemplates a (rolling) transition, in which stations are permitted to cease providing analog service at various times prior to the nationwide conclusion of the transition consistent with the Commission’s rules.”²¹

In accordance with that congressionally-granted flexibility, approximately 36 percent of the nation’s full power television broadcasters ended their analog transmissions on or before February 17 – the original “hard date” – and are now broadcasting exclusively in digital.²² By all accounts, this “partial transition” was a success. These stations are today serving millions of television viewers that are accessing digital-only broadcasts in markets across the country. Indeed, in a vast majority of television markets at least one station has chosen to end its analog transmission consistent with the flexibility allowed by the DTV Delay Act, affecting, in one way or another, most over-the-air American homes. In several DMAs, every full-power television station has ended analog transmission. Further, in more than 20 other

²¹ *Report and Notice* at ¶ 10.

²² See FCC News Release, *Preparations in High Gear for Stations Going All-Digital This Week* (rel. Feb 16, 2009) (“Of the nation’s nearly 1,800 full-power television stations, 220 will have terminated their analog signals before Tuesday and another 421 will terminate their analog signals on Tuesday before 11:59 pm, for a total of 641 stations, or about 36% of all full-power stations nationwide.”).

television markets, including larger markets such as San Diego, most full-power stations have successfully switched to all-digital broadcasting.

It is logical to assume that in markets where all or most stations have already made the transition, all or most of the affected over-the-air viewers have already taken the necessary steps to ensure access to digital signals. NAB/MSTV believe that to require all stations within these markets to adhere to comprehensive consumer education requirements is unnecessary, burdensome and likely to cause additional viewer confusion. Therefore, the Commission should alter its approach toward education requirements for digital-only stations in markets where all or most full power stations have already transitioned to digital.²³

A. Changed Circumstances Necessitate a More Flexible Approach to Consumer Education Requirements

The *Report and Notice* (at ¶¶ 11-12) makes changes to Section 73.674 of the Commission's rules, extending the consumer education requirements originally adopted in the *DTV Consumer Education Initiative Order* from the end of the first calendar quarter, March 31, to the end of the second calendar quarter, June 30. The Commission originally adopted Section 73.674 on the assumption that the vast majority of stations would end analog transmissions on the same date – February 17. However,

²³ The Commission has the authority to waive its rules for good cause shown. See 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest, and grant of a waiver would not undermine the policy served by the rule. See *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *aff'd*, 459 F.2d 1203 (D.C. Cir. 1972). For the reasons discussed below, waiver of the consumer education requirements would be appropriate here. To the extent that the Commission deems NAB's proposals regarding the consumer education requirements to be a request for reconsideration of rule changes adopted in the *Report and Notice*, NAB hereby requests reconsideration of those rules pursuant to Section 1.429. See 47 C.F.R. § 1.429.

the circumstances of the DTV Transition have changed substantially since the *DTV Consumer Education Initiative Order* was adopted more than one year ago.

First, the DTV Delay Act has created different conditions in markets across the country. As noted above, approximately 36 percent of the nation's television stations have successfully switched to all-digital broadcasting. As a result, some markets have far less need of consumer education than others.

Second, Congress has adopted and the Commission has implemented the Analog Nightlight program to provide a lifeline of DTV information and emergency alerts for those few over-the-air consumers that do not take the necessary steps to receive digital signals by the transition date.²⁴ As the *Report and Notice* acknowledges (at ¶ 67), post-June 12th education requirements are made redundant by the consumer protections provided by the Analog Nightlight program. The Commission asks whether participation in the Analog Nightlight program, or support of another station's participation in the program in the same market, is sufficient to fulfill a station's consumer education requirement.²⁵ We believe that it is.²⁶

The *Report and Notice* does not appear to address the circumstances of those broadcasters and markets that made the switch to all-digital broadcasting on or before February 17. In many markets where stations have already transitioned to all-digital programming, there exists some type of nightlight and/or "enhanced nightlight" programming. Just as it did with Wilmington, the Commission should consider

²⁴ See *Implementation of Short-term Analog Flash and Emergency Readiness Act; Establishment of DTV Transition "Analog Nightlight" Program*, Report and Order, MB Docket No. 08-255 (rel. Jan 15, 2009).

²⁵ *Report and Notice* at ¶ 68.

²⁶ See *infra* Section V.

participation in the Nightlight program, or airing of any enhanced Nightlight information, by at least one station in these markets sufficient to fulfill the consumer education requirements of all stations that have terminated analog broadcasts.

B. In Markets Where All Full-Power Stations Have Ended Analog Transmission, the Commission Should Not Require More Consumer Education About the DTV Transition

According to recent FCC releases, there are 11 DMAs where all full-power television stations have permanently ceased analog transmissions.²⁷ No over-the-air television viewer within those markets can receive full-power local television stations without a digital television or a digital-to-analog converter box. In most of those markets, at least one television station has volunteered to air enhanced nightlight programming.²⁸ Therefore, the remaining few television viewers (if any) in those markets that do not have a digital television or who have not yet connected a digital-to-analog converter box in those markets have access to the necessary information to make the switch. NAB/MSTV believe that there is no reason to continue to impose on digital-only stations in these markets any DTV consumer education requirements. Any spots, crawls, countdowns or news stories that promote a June 12 analog shutoff date are unnecessary and will almost certainly create more confusion for consumers that

²⁷ See FCC News Release, *Preparations in High Gear for Stations Going All-Digital This Week*, Attachment A (rel. Feb. 16, 2009, attachment updated on Feb. 20, 2009). The Attachment highlights all full-power television stations that planned to terminate analog service before or on Feb. 17. Those markets include: Burlington-Plattsburgh, Greenwood-Greenville, Guam, Honolulu, North Platte, Providence-New Bedford, Rockford, San Angelo, Santa Barbara-Santa Maria-San Luis Obispo, Springfield-Holyoke, and Wilmington.

²⁸ *Id.* All-digital markets with at least one Nightlight participant include: Burlington-Plattsburgh, Greenwood-Greenville, Providence-New Bedford, Rockford, San Angelo, Santa Barbara-Santa Maria-San Luis Obispo, Springfield-Holyoke, and Wilmington.

have already made the switch. Therefore, NAB/MSTV request that the Commission exempt these markets from any further DTV consumer education requirements.

We can think of no logical reason to require stations in these all-digital markets to air extensive consumer education information on digital-only stations. It is a safe assumption that if someone is watching a DTV education spot or crawl aired by a digital-only station, they have already upgraded their television or purchased a converter box. And that small number of viewers who have not yet obtained a DTV set or a converter box – *i.e.*, the only viewers who could conceivably need DTV education information – would be the ones unable to access such information when aired on a digital-only station. While some viewers within those markets may receive television service via translators, boosters, or low power television stations, it is not necessary to educate those viewers about the new June 12 national shutoff date. The transition of low power television stations, translators and boosters are not tied to the June 12 analog shutoff date. Therefore, DTV consumer education alerts in those markets will only create confusion and cause annoyance to consumers.

Neither is it a valid reason to impose consumer education requirements in all-digital markets because some viewers with at least one television connected to cable or satellite television service may have other televisions that receive service over-the-air. Conceivably, some of those viewers could see DTV consumer education information on a digital broadcast channel via cable or satellite in the weeks or months after all the local channels have switched off their analog signals. Such a scenario does not, however, justify burdening both stations and the vast majority of local viewers with repetitive and confusing DTV education spots. As noted above, in most of those

markets, the rare affected cable/satellite subscriber will still be able to receive DTV information via a Nightlight station. For all these reasons, NAB/MSTV request that the Commission exempt from further DTV consumer education requirements those markets where all full power television stations have already ceased analog transmissions.²⁹

C. In Markets Where All or Most Major Affiliate Stations Have Ended Analog Transmissions, the Commission Should Adopt Significantly Reduced Consumer Education Requirements for All-Digital Stations

For the same reasons set forth above, it is reasonable to assume that in markets where all or most major network affiliate stations have switched to digital, most, if not all, viewers in those markets have already taken the necessary steps to access television in an all-digital environment. Thus, viewers in those markets are unlikely to benefit from extra DTV consumer education messages that appear on digital channels now that those broadcasters have ended analog transmissions. Therefore, for all-digital stations in those markets, the Commission should adopt significantly reduced DTV education requirements that balance the limited need for further education in those markets against the likely confusion and annoyance that continuing on-air DTV information notices will cause in markets where major stations have already transitioned.³⁰

²⁹ Also with regard to stations that transitioned on or before February 17, there appears no need for them to file in April a DTV Transition Status Report on FCC Form 387. See *Report and Notice* at ¶ 33 (requiring stations to update these reports by April 16 “to reflect their transition plans as a result of the delay in the nationwide transition deadline”). The FCC already knows which stations transitioned on or before February 17, and there is nothing for these stations to update, as their plans are unaffected by the delay in the transition date.

³⁰ For example, the Commission could require that all-digital stations have the choice of airing one PSA per day between 6 a.m. and 10 p.m. or one 60-second crawl per day that highlights the new national transition date but that may differentiate that particular station from other stations in the market that have not yet terminated analog transmissions.

According to FCC releases, there are more than 20 DMAs where all or most of the major network affiliate stations have switched to all-digital broadcasting.³¹ Some of those markets, like San Diego, California, are urban and suburban areas with high populations and unique topography. Other markets, like Sioux City in Iowa and Nebraska, are mostly rural areas with smaller populations. Each type of market presents unique DTV transition challenges. However, by all reports, stations in those markets encountered fewer than anticipated problems when they terminated analog transmission last month.³² Further, it is logical to assume that viewers in those markets where all or most network affiliate stations ended analog transmissions have made the switch as well. Any viewers in those markets that have not made the necessary preparations to receive digital television – viewers that are now receiving drastically reduced analog service – have, by now, realized they need to take action to prepare for the final switch to all-digital broadcasting. Moreover, such viewers will likely take action quickly – certainly well before June 12 – simply because their viewing options have already been greatly reduced. It is not necessary, therefore, and indeed may be counterproductive, to assail viewers in those markets, especially those now watching only digital channels, with numerous DTV informational notices. In particular, on digital-only channels crawls, tickers and countdowns to a date that has no significance for the

³¹ See FCC News Release, *Preparations in High Gear for Stations Going All-Digital This Week*, Attachment A (rel. Feb. 16, 2009, attachment updated on Feb. 20, 2009).

³² See, e.g., *Digital TV Switch Goes Smoothly in San Diego*, L.A. Times, Alex Pham and Meg James, Feb. 19, 2009; see also *Digital TV Conversion Goes Smoothly*, La Crosse Tribune, Chris Hubbach, Feb. 18, 2009.

vast majority of television viewers will lead to widespread confusion and unnecessary frustration.³³

To be clear, NAB/MSTV do not suggest that the Commission adopt significantly reduced consumer education requirements for *all* stations in these affected markets, but only those stations that have turned off their analog signal and are now broadcasting exclusively in digital. Stations that have yet to end analog transmissions should prepare their viewers in accordance with FCC rules.³⁴

III. Allowing Stations Flexibility in Transitioning Prior To June 12 Will Serve the Public Interest and Is Consistent With the Act

Especially in light of the smooth transition of hundreds of television stations to digital-only broadcasting on February 17, there is no need to reduce the flexibility of stations wanting or needing to cease analog broadcasting before June 12. Doing so would not serve the public interest and would not comport with the terms of the DTV Delay Act.

A. The Public Interest Is Served by Flexibility for Stations to Transition Early

In the DTV Delay Act, Congress recognized that the public interest is served by permitting stations to transition to digital-only broadcasting before June 12. For example, stations located in hurricane or tornado areas may want to consider

³³ Stations have reported general displeasure from their viewers over the large numbers of crawls that interfere with programming. See Attachment B for examples of viewer complaints concerning crawls and other DTV education announcements.

³⁴ In San Diego, for example, where three of the four major affiliate stations have already terminated analog broadcasting, unprepared analog viewers are still able to receive DTV information both from the local NBC affiliate, KNSD, which will be switching on June 12, and from the Nightlight programming running on the analog channel of the local Fox affiliate, KSWB. Significantly reduced consumer education requirements should be adopted for the three network affiliate stations that have already switched, but not for the NBC affiliate that has not switched.

transitioning early, so that any unforeseen complications in their transition can be resolved before hurricane season begins on June 1. All stations in an entire state (Hawaii) transitioned in January because of concerns over nesting bird populations. There may be other market-specific reasons why it would serve the public interest for some or all of the stations in other markets to complete their transitions early. Individual stations must also retain the flexibility to cease analog broadcasting early due to their particular circumstances (e.g., problems with aging analog equipment; loss of analog transmitter site; economic hardship; need to coordinate technical transition issues including scheduling tower crews, *etc.*).³⁵

NAB/MSTV submit that there is no sound reason to prevent all or most stations in a market from transitioning prior to June 12. *See Report and Notice* at ¶ 57 (inquiring whether allowing this would deprive consumers of access to vital news and information). In addition to Wilmington, NC and Hawaii, all or nearly all television stations in a number of other markets across the country have ceased analog broadcasting without major difficulties or harm to the public. Given that hundreds of television stations have successfully transitioned already (as expressly permitted by Congress), it would not serve the public interest for the Commission to reverse course now and prevent stations (even if all or most of the stations in any market) from transitioning prior to June 12. This is particularly true in light of the analog nighttime programs that protect consumers'

³⁵ With respect to stations confronting transmitter and equipment problems, such stations should not be subject to the notification and consumer rules that would normally apply to stations making an early transition. For example, it would be impossible for a station to meet a 30 or 60-day notice requirement if there was an unanticipated malfunction in the analog transmitter. At this stage of the transition, it has become difficult or impossible to secure a replacement parts for analog transmitters, cable and other equipment.

access to DTV transition-related and emergency information,³⁶ and increased efforts by both industry and the Commission to prepare consumers for the transition.³⁷

B. The Act Provides for Early Termination Under Existing, Flexible FCC Procedures

Section 4(a) of the Act provides that nothing is intended to prevent a television station from terminating analog broadcasting prior to June 12, so long as such early termination is in accordance with the FCC's "requirements in effect on the date of enactment of this Act, including the flexible procedures established" in the *Third Periodic Review*.³⁸ Given this clear language of the Act, as well as its legislative history, Congress plainly intended to permit early termination under *existing* requirements – indeed, that is the title of Section 4(a) ("Permissive Early Termination Under Existing Requirements"). Under "step one" of *Chevron*, the Commission "must give effect" to

³⁶ Congress enacted the Short-term Analog Flash and Emergency Readiness Act of 2008 on December 23, 2008. The Commission adopted an order implementing this Act on January 15, 2009. *Implementation of Short-term Analog Flash and Emergency Readiness Act; Establishment of DTV Transition "Analog Nightlight" Program*, Report and Order, MB Docket No. 08-255, FCC 09-2 (rel. Jan. 15, 2009).

³⁷ See, e.g., FCC, *Preparations in High Gear for Stations Going All-Digital This Week*, press release (Feb. 16, 2009).

³⁸ *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, 23 FCC Rcd 2994 (2007) ("*Third Periodic Review*").

this congressional intent.³⁹ The *Report and Notice*'s conclusion (at ¶ 30) that the Act authorizes it to change the *Third Periodic Review*'s procedures for early termination, including by imposing additional requirements on stations planning to transition before June 12, does not comport with the Act's clear terms nor the requirements of *Chevron*.

The inclusion of a general provision (Section 4(c) of the Act) directing the Commission to take actions "necessary or appropriate to implement the provisions, and carry out the purposes, of this Act" cannot be read to override Congress' intent with respect to the specific issue of early termination.⁴⁰ Indeed, on its face, Section 4(c) merely authorizes the Commission "to implement" other provisions of the Act, including Section 4(a), which as described above, specifically allows stations to cease analog broadcasting under existing requirements. It is a basic principle of statutory construction that the "[s]pecific terms" of a statute "prevail over the general in the same

³⁹ *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 843 (1984). In determining whether "Congress had an intention on the precise question at issue," the "traditional tools of statutory construction" are employed. *Id.*, at n. 9. The "first traditional tool of statutory construction focuses on the language of the statute," *Bell Atlantic Telephone Companies v. FCC*, 131 F.3d 1044, 1047 (1997), which as discussed above, clearly expresses Congress' intent as "to the precise question at issue" – the requirements for early termination of analog broadcasting. *Chevron*, 467 U.S. at 842. Another "traditional tool" is legislative history, *Bell Atlantic*, 131 F.3d at 1047, which further shows that Congress intended to allow television stations great flexibility in turning off analog signals before June 12. See Statement of Rep. Boucher, Cong. Rec. at H585 (Jan. 27, 2009) ("[w]e fully anticipate that the FCC will be very flexible in applying" the provision allowing stations to cease analog broadcasting early); Statement of Sen. Hutchison, Cong. Rec. at S1051 (Jan. 29, 2009) (explaining that the delay of the DTV transition date "is voluntary," which "was very important" because "many broadcast companies have made the investment for digital transmission" and the bill allows them "to go" digital). Senator Hutchison's statement that the entire delay of the DTV transition "is voluntary" should be given particular weight, as she was a co-sponsor of the Senate legislation.

⁴⁰ See *Report and Notice* at ¶ 30 (citing Section 4(c) – and particularly the language authorizing the FCC to "carry out the purposes" of the Act – as authority for changing the requirements for early termination).

or another statute.”⁴¹ Moreover, the general “purpose” of legislation cannot be invoked “at the expense of specific provisions” of a statute itself.⁴² The existence of this general provision directing the Commission to implement the Act cannot properly be read to make the Act ambiguous as to Congress’ intent with respect to the precise issue of early termination.⁴³

The fact that Section 4(a) “does not prohibit the Commission from modifying its early termination procedures,” *Report and Notice* at ¶ 30, does not mean that it is permissible for the Commission to adopt additional procedures different from those in existence when Congress passed the Act. The D.C. Circuit Court of Appeals has rejected such a position as “untenable” in a number of cases.⁴⁴ To suggest, as the *Report and Notice* does, that “*Chevron* step two is implicated any time a statute does not expressly *negate* the existence of a claimed administrative power (*i.e.*, when the

⁴¹ *Fourco Glass Co. v. Transmirra Products Corp.*, 353 U.S. 222, 228-29 (1957).

⁴² *Bd. of Governors of the Federal Reserve Sys. v. Dimension Federal Corp.*, 474 U.S. 361, 373 (1986). See also, *e.g.*, *Markair, Inc. v. Civil Aeronautics Bd.*, 744 F.2d 1383, 1385-86 (9th Cir. 1984); *Regular Common Carrier Conf. v. U.S.* 820 F.2d 1323, 1331 (D.C. Cir. 1987) (establishing that agencies cannot rely on their general authority to act in the public convenience or necessity if in doing so they ignore or contravene congressional intent embodied in a specific statutory provision).

⁴³ See *Report and Notice* at n. 59 (noting that, under *Chevron* step two, courts generally defer to an agency’s reasonable interpretation of an “ambiguous” statutory provision). However, the question of “whether there is such an ambiguity is for the court,” which “owe[s] the agency no deference on the existence of ambiguity.” *American Bar Assoc. v. FTC*, 430 F.3d 457, 468 (D.C. Cir. 2005). Given Section 4(a)’s specificity and its express reference to the *Third Periodic Review*’s procedures for early termination, there can be no reasonable claim that the Act “is either silent or ambiguous,” such that a court would defer to the FCC’s interpretation of Section 4(a). *AT&T Corp. v. FCC*, 323 F.3d 1081, 1086 (D.C. Cir. 2003).

⁴⁴ *Aid Association for Lutherans v. U.S. Postal Service*, 321 F.3d 1166, 1174-75 (D.C. Cir. 2003) (rejecting Postal Service’s position that “disputed regulations are permissible because the statute does not expressly foreclose the construction advanced by the agency,” and citing numerous cases to same effect).

statute is not written in ‘thou shalt not’ terms),” is contrary to administrative law and precedent.⁴⁵ Under *Chevron* and numerous other cases, therefore, the Commission should give effect to Congress’ clear intent in Section 4(a) to allow stations to cease analog broadcasting prior to June 12 under the flexible procedures established in the *Third Periodic Review*.

C. The Public Interest Is Not Served by Unnecessary Burdens on Stations That Will Likely Have Unintended Consequences for Viewers

Any station proposing to transition before June 12 must provide at least 30 days of additional on-air notifications, as the *Third Periodic Review* provided.⁴⁶ As discussed below, NAB/MSTV believe that such notifications strike the proper balance between the need to ensure that viewers are informed and the need to avoid oversaturation and viewer annoyance. There is no reason to require a longer period of these additional notifications.⁴⁷ Indeed, the public reaction to the early transition of hundreds of stations on February 17 also shows that a longer period of on-air notifications is not needed so as to prevent widespread consumer confusion.

⁴⁵ *Railway Labor Executives’ Assoc. v. Nat’l Mediation Bd.*, 29 F.3d 655, 671 (D.C. Cir. 1994) (if courts were “to presume a delegation of power” from the absence of “an express *withholding* of such power, agencies would enjoy virtually limitless hegemony, a result plainly out of keeping with *Chevron* and quite likely with the Constitution as well”) (emphases in original).

⁴⁶ Under these requirements, stations must air viewer notifications on their analog channel at least four times a day, including at least once in primetime, for at least 30 days prior to the date of their early transition. These notices must include, *inter alia*, information about station’s planned date of termination, what viewers can do to continue to receive the station, and information about the availability of converter boxes in the local service area. These viewer notifications are in addition to, and separate from, the requirements established in the FCC’s DTV consumer education proceeding.

⁴⁷ See *Report and Notice* at ¶ 50 (asking whether to require a more extensive period of notifications, such as 60 days from a station’s analog termination, a uniform date for all stations, or as soon as a station’s termination date is finalized).

It is important to recognize that increased on-air notices would only lead to greater viewer fatigue and annoyance. According to SmithGeiger LLC, a leading media market research and consulting firm, 37% of over-the-air households already feel there have been “too many messages” directed at them – and this research was conducted in October, well before the commencement of the 100-day countdown or viewer notifications connected to February 17 shutoffs.⁴⁸ Stations across the country have also received many complaints from viewers about the DTV education notices.⁴⁹ Viewers have clearly expressed their annoyance about the number and frequency of these notices, and some have also asked if stations could stop running them because consumers were already aware of the transition. There is a clear risk that increasing the number of DTV-related on-air notices will not lead to greater consumer awareness but only greater consumer annoyance, with the likely result being that viewers simply begin to tune out these notices, and possibly other important emergency messages.⁵⁰ The Commission should not unnecessarily add to consumer annoyance by requiring stations to run the additional on-air notifications for a period longer than 30 days, as

⁴⁸ Attachment A, Letter from Seth Geiger, President, SmithGeiger, LLC (Feb. 24, 2009).

⁴⁹ For example, a network affiliate in a mid-sized market in Washington state estimated that it had received “well over 100 calls from viewers” upset about the DTV notices – and that was a “conservative” estimate. An emerging network affiliate licensed to a small Ohio community reported receiving 50-75 calls complaining about DTV notices.

⁵⁰ Attachment B, Sample Viewer Complaints, includes a selection of typical viewer complaints about on-air DTV notices sent to stations around the country. The tone of many of these viewer emails (*e.g.*, complaining about suffering through excessive numbers of DTV notices; accusing stations of overkill; stating that they are reaching for the off-switch, *etc.*) clearly demonstrates a growing level of frustration with the number and frequency of on-air notices.

established in the *Third Periodic Review*.⁵¹ To avoid confusion, the timing and content of all notifications should be tied directly to the 30-day window before an individual station transitions, and should not be tied to the actions of other stations in the market or a uniform date.

Similarly, we do not believe it necessary to require all stations terminating before June 12 to air crawls for increasing amounts of time during the seven days prior to their cessation of analog programming.⁵² In light of the *Third Periodic Review*'s requirement for 30 days of on-air notifications, viewers will be well informed of any station's plans to transition early to all-digital broadcasting. Moreover, a review of the attached sampling of viewer complaints shows that consumers find crawls to be particularly annoying. Many viewers from markets across the country took the time to complain to their local stations specifically about crawls, how distracting they are, and asking the stations to stop them. Some viewers even stated that they stopped watching some stations' channels because of the DTV crawls. The Commission must consider this factor of viewer fatigue as it will directly impact the effectiveness of stations' on-air DTV notices going forward. Given that many viewers find crawls to be so harmful to the viewing experience, the Commission should reconsider its proposal to require these additional amounts of crawls to be aired by stations transitioning early.

NAB/MSTV agree with the Commission that stations should be able to shut off analog service at any time of the day on June 12 (or at any time of the day on which

⁵¹ Moreover, as discussed in detail above, the Act does not contemplate increasing the requirements for early termination of analog signals set forth in the *Third Periodic Review*.

⁵² See *Report and Notice* at ¶ 50.

they are transitioning, if prior to June 12).⁵³ Previous experience with the hundreds of stations that have already ceased analog broadcasts shows that there is no need to mandate a uniform time of day for shutting off service. Allowing stations this flexibility did not appear to cause any additional or specific viewer confusion.

IV. For Stations That Have Yet To Terminate Analog Transmissions, The Commission's Consumer Education Rules Should Reflect Lessons Learned From Analog Terminations in Wilmington, Honolulu, and Across the Nation on February 17

A. The 100-Day Countdown Rule Should be Modified to Better Serve Consumer Interests in Certain Situations

In the *Report and Notice*, the Commission finds that Option Two broadcasters must initiate a new 100-Day Countdown beginning on March 4 because the new DTV transition deadline of June 12, 2009 means that more than 100 days remain in the transition,⁵⁴ but also seeks comment on whether and how to modify the countdown obligation to ensure that it provides the most useful and accurate information to viewers about the new transition deadline.⁵⁵ NAB/MSTV support the Commission's commitment to consumers and the underlying goal of a new countdown requirement. Given the various dates on which stations have already transitioned or may in the future transition, we also agree with the Commission that "requiring an identical and simultaneous countdown" would "create more confusion that it would alleviate,"⁵⁶ ultimately undermining our shared goal of a successful, smooth transition. As we note above, for

⁵³ See *Report and Notice* at ¶ 58.

⁵⁴ *Report and Notice* at ¶ 19 (citing 47 C.F.R. § 73.674(d)(6)). On March 3, the FCC released a public notice waiving the countdown obligation until the effective date of the relevant rule adopted in the instant proceeding. See *Temporary Waiver of the 100-Day Countdown Requirement*, FCC 09-15 (rel. Mar. 3, 2009).

⁵⁵ *Report and Notice* at ¶ 59.

⁵⁶ *Id.*

stations that have already switched to all-digital broadcasting, the Commission should either eliminate or significantly reduce DTV consumer education requirements, including specifically the 100-day countdown. For stations that have yet to transition, the Commission should prescribe rules that allow for maximum flexibility to accommodate differing market conditions.

In formulating a countdown requirement, the Commission must weigh the need to publicize the new DTV transition date against the risks of viewer fatigue and consumer confusion. NAB/MSTV, therefore, propose a multi-faceted approach:

- No countdown requirement for stations that have already transitioned;
- For stations that plan to transition before June 12, the option to air a countdown to their transition date and no requirement to air a countdown to the national transition date;
- For stations that will transition on June 12, a 60-day countdown instead of 100-day countdown.

A new countdown would clearly be counterproductive in certain instances.

Viewers of digital-only stations in markets that have either fully or partially transitioned have already seen numerous messages from multiple stations promoting their transition to digital on February 17. A new countdown would likely only confuse those viewers as to whether their local stations in fact transitioned to DTV last month, or whether they need to take any additional actions.

The decision whether to run a new countdown on stations that have already transitioned to digital therefore should be left to the business and marketing discretion of those stations. Individual broadcasters can best measure consumer awareness in their communities and respond with appropriate promotions. If a digital station believes that

a new countdown would augment consumer awareness of the DTV transition, without increasing confusion among viewers, then the broadcaster will run the countdown.

Similar flexibility also should be provided to those stations that intend to transition prior to June 12, while others in the market will complete their conversion on the national deadline of June 12. In these instances, it would be extremely confusing for viewers if all the stations were required to display the same countdown tied to June 12, 2009, including the stations that will convert before June 12. Moreover, a mandate that such stations run two countdowns – one tied to its own transition date and another tied to the nationwide transition on June 12, 2009 – would only exacerbate the problem. Each station should be responsible for a countdown that relates exclusively to its plans to terminate analog service; stations should not be responsible for providing the countdown plans of other stations in the market.⁵⁷

Finally, with respect to stations that will be transitioning on June 12, NAB/MSTV submit that a countdown of 60 days, beginning on Monday, April 13, would best serve the goal of creating a sense of urgency surrounding the new June 12 date.

As described in the attached letter from SmithGeiger, it is best not to resume the countdown clock too quickly, while stations continue to re-educate viewers about the new DTV deadline in other ways.⁵⁸ Without a sufficient lag time before starting the new

⁵⁷ Indeed, including other stations' plans in the countdown process would be especially confusing in East Coast markets, where there is a significant overlap in coverage between markets. For example, would stations in Baltimore have to include the plans of stations in Washington, because there is coverage and viewing overlap in several Maryland counties? Such an approach would become extremely confusing to viewers. The best policy is to have the countdown requirements linked to the individual station's transition plans.

⁵⁸ See Attachment A, Letter from Seth Geiger, President, SmithGeiger, LLC (Feb. 24, 2009).

countdown, many viewers may become confused by the purpose of the second countdown, or simply “tune out” the new countdown, especially given recent survey results showing that 97% of television households were already aware of the transition well before February 17.⁵⁹

Moreover, as the attached sample of viewer emails demonstrates, many viewers already feel that too many messages about the DTV transition have been directed at them.⁶⁰ Accordingly, NAB/MSTV suggest restarting the countdown for appropriate stations at 60 days before the new national transition deadline (on April 13, 2009) would better serve consumers.

B. Viewers Will Benefit From An Updated 30-Minute Informational Video Aired By Stations That Have Not Yet Transitioned To Digital

The Commission notes that under its consumer education rules, broadcasters selecting Options One, Two, or Three are all required to air a 30-minute informational video on the DTV transition.⁶¹ The *Report and Notice* observes that most broadcasters aired this program before the DTV Delay Act became law, so their programs necessarily reflected the previous transition deadline. The Commission seeks comment on whether its rules should require stations that have not yet transitioned to air an updated 30-minute program before they cease analog programming.⁶² In addition, the Commission seeks comment on whether the program should contain specific content, including: the

⁵⁹ DTVAnswers.com, *New Poll Finds 8 of 10 Broadcast-Only Households Have Taken Steps to Prepare for Digital TV Switch*, press release (Feb. 5, 2009). This survey was conducted in January 2009.

⁶⁰ See Attachment B, Sample Viewer Complaints.

⁶¹ *Report and Notice* at ¶ 61, citing 47 C.F.R. § 73.674(d)(5).

⁶² *Report and Notice* at ¶ 61. The Commission recognized that for stations that already have transitioned to all-digital, airing such a program would not serve the needs of their viewers. *Id.* NAB agrees with this conclusion.

new June 12 transition date; the specific date that the individual station is transitioning; when other stations in the market are transitioning; and/or any change in the station's coverage area.⁶³

NAB/MSTV see value to consumers in the airing of an additional, updated 30-minute video by stations that have not yet transitioned to digital, and we support the Commission's proposal. Indeed, NAB already is working on the production of a new 30-minute video in both English and Spanish that reflects the June 12 transition date. NAB/MSTV and broadcasters around the nation have very strong incentives to ensure that consumers have the information necessary for a seamless transition to DTV. Because of this, there is no need for governmental mandates regarding the precise content of the new 30-minute program.⁶⁴ To the extent that the Commission remains concerned about the messages being received by listeners, however, we urge the Commission to afford stations sufficient flexibility to ensure that these messages are delivered in the most effective manner and that their delivery does not become technically or economically infeasible. As discussed below, we propose that: (i) stations be given the option to include station-specific information such as analog termination date and changes in coverage in formats other than the 30-minute program, such as spots, news segments, or crawls/snipes/tickers; and (ii) each station retain responsibility for educating its own viewers, rather than have market-wide monitoring systems where

⁶³ *Id.* at ¶ 62.

⁶⁴ Indeed, the Commission imposed no such content requirements when it originally adopted the obligation to air a 30-minute information program, specifying only that "[s]tations must also air a 30-minute informational program on the digital television (DTV) transition between 8 am – 11:35 pm on at least one day prior to" the DTV transition date. See 47 C.F.R. § 73.674(d)(5) (Option Two broadcasters); 47 C.F.R. § 73.674(d)(5)(Option Three broadcasters). See also *DTV Consumer Education Initiative*, Report and Order, 23 FCC Rcd 4134, 4149-50 ¶¶ 31, 34 (2008).

stations would be forced to report on the DTV transition plans of all other market stations.

NAB is working to produce both a 30-minute version of its program and a slightly shorter version with a “carve-out” for the inclusion of local, station-specific information. Some stations may wish to produce their own localized information and include it in this program. Not all stations, however, will determine that the 30-minute program is the most appropriate forum for station-specific information.⁶⁵ Information about an individual station’s switch date or coverage change could be lost in a longer program that contains information on the coupon program, converter box purchases and installation, rescanning, and antennas. We urge the Commission to afford stations flexibility in when/where the analog shutoff and coverage change information must be aired and to allow stations the option to make this information available as part of a spot, a crawl/snipe/ticker, a news segment, or an “Ask the Expert” segment in a news or

⁶⁵ Some stations may not have the production facilities to create such a program or even an insert with station-specific information. The 30-minute program produced by NAB will be captioned, but adding material to the program may require a station to caption not only its additional material, but, in some cases, to re-caption the entire 30-minute program. This may make the addition of station-specific information economically infeasible for some stations. See, e.g., NAB Comments in CG Docket No. 05-231 at 7-9 (filed Nov. 10, 2005) (“The cost of contracting for real-time captioning varies greatly, ranging from \$100 to approximately \$500 per hour. Moreover, the cost to stations is inversely proportional to a station’s ‘buying power’ – small and medium market broadcasters who are not part of a station group typically receive less discounts than stations that are contracting with captioning companies for a ‘bulk discount.’”). The cost of “off-line” captions (*i.e.*, captions that are created and added after a program has been recorded and before it is aired) is even higher. See *Ex Parte* Written Presentation of AZN Television, *et al.*, in CG Docket No. 05-231 at 3-5 (filed Feb. 10, 2006) (program network estimated that off-line captions cost almost six times as much to produce as real-time captions).

public affairs program.⁶⁶ Allowing stations to develop varied approaches based on what will be most effective in their markets will better serve the public interest.

With respect to the analog termination plans of other stations in their markets, stations should not be required to provide viewers with specific information about every station in the market in the 30-minute program or any other consumer education messaging. Information on the timing of stations' analog terminations is currently in flux and may change. Including this information could render a station's 30-minute program inaccurate after it has already been produced and/or aired. Even including this information in alternative formats may present unintended challenges. A station that airs a news segment on the transition on March 16 may learn—just a few days later—that a station in its market filed a notification of plans to transition before June 12. This could confuse viewers and cause them to mistrust messages about the transition. Although there is a great deal of coordination and cooperation among stations in connection with the transition, the responsibility for educating consumers about analog termination dates should rest with individual stations, not their competitors. Accordingly, the Commission should avoid requiring stations to air messages about the plans of others in their market.⁶⁷

⁶⁶ Specific suggestions regarding changes in coverage areas are discussed below at Section IV.C.

⁶⁷ Moreover, as noted below, the Commission should avoid dictating the precise content of on-air DTV messages, in light of statutory authority and First Amendment concerns.

C. Broadcasters Must Strike a Careful Balance in Notifying Consumers of Potential Service Losses

NAB/MSTV support the Commission's goals of enhancing consumer education about rescanning and changes in station coverage areas.⁶⁸ Although we are still mining information from the February 17 transition of hundreds of stations to digital-only broadcasting to better prepare for the June 12 nationwide switch, information reported to NAB suggests that the number one consumer question related to rescanning of over-the-air digital sets or converter boxes. Therefore, the Commission's proposal that television stations provide notice to consumers about the need to periodically "rescan" when using over-the-air digital televisions or digital converter boxes connected to analog sets makes sense.⁶⁹ Consumers should have this information in the time leading up to June 12, as stations switch channels, including in some cases their digital channels. So long as stations have the flexibility as to how to provide this notice (*i.e.*, in crawls, spots, news segments, special programs, etc.), NAB/MSTV support this proposal. Indeed, NAB has produced and distributed DTV Action spots and other educational materials focused on the issue of rescanning that stations may use to educate their viewers.⁷⁰ A new spot addressing rescanning is currently in production.

With respect to consumer education regarding changes in station coverage areas,⁷¹ NAB/MSTV are concerned that some of the Commission's proposals could generate unnecessary confusion, anxiety and information-overload among the majority

⁶⁸ *Report and Notice* at ¶¶ 63-66.

⁶⁹ *Report and Notice* at ¶ 66.

⁷⁰ The NAB DTV Action spot on rescanning can be viewed here: http://www.dtvanswers.com/dtv_30spots.html?b=17.

⁷¹ *Report and Notice* at ¶¶ 63-65.

of the general population who will not be affected by or need the information. The important goal of providing consumers with information they need to transition successfully to all-digital television must be balanced against providing too much or unnecessary information to too many viewers. If the balance tips too far towards the latter, a large number of consumers can become needlessly confused or worried, and unnecessary calls may flood the call center. This is particularly so with regard to potential changes to or loss of service from individual stations.

To strike an appropriate balance, stations that are predicted to lose two percent or more of their analog viewers as a result of a change in their geographic coverage area⁷² should have the flexibility to design the best way to communicate information, over-the-air, of this potential loss to their viewers, and, importantly, how to obtain

⁷² As the Commission specified in its *Report and Notice*, such notifications are only needed where a station will lose two percent or more of its viewership due to changes in signal coverage. According to the FCC, it appears there are 196 stations where there will be two percent or greater viewership losses due to changes in coverage. See *Report and Notice* at n. 121 (citing FCC, *Full-Power Digital Television Stations Having Significant Changes in Coverage*, Report (rel. Dec. 23, 2008), available at: <http://www.fcc.gov/dtv/markets/report2.html>). We agree with the Commission that losses due solely to propagation affect, such as changing channels from VHF to UHF, do not necessarily entail a change in coverage pattern. In these instances, it would be extremely confusing and inaccurate to attempt to isolate the locations where there may be a service issue. For example, signal issues may arise because of individual buildings or localized terrain. Moreover, consumers may be able to receive digital service in these areas with slight adjustments in the location of receiving equipment.

specific information.⁷³ We would support having these stations include in weekly on-air consumer DTV initiatives of their choosing a notice, such as: “a small percentage of current viewers using an antenna to view this analog station may have problems receiving this station’s digital signal; you can go to www.AntennaWeb.org to determine this and to see what outdoor antenna type will best serve your specific geographic location.”⁷⁴ The Commission should not dictate the precise language of this notice, but allow stations to tailor their messages with the content that will be most helpful to local viewers in differing markets.⁷⁵

⁷³ We believe the FCC’s maps can serve as a tool for isolating where there may be service issues and making an initial threshold determination of whether there would be a loss of viewership of two percent or more. Nonetheless, stations should have the ability to demonstrate through specific engineering showings that the anticipated loss will be less than that shown on the FCC’s coverage maps. Moreover, we do not believe that the maps will necessarily serve as an effective tool for consumers. We know from experience that, with the correct receiving equipment, viewers may receive digital signals even though they are outside the “predicted” coverage area. The key issue is to make sure viewers are aware of the type of antenna that is needed to receive digital signals. In short, the maps will not give consumers the necessary information they need to receive signals. We believe a more appropriate, consumer-friendly tool such as AntennaWeb.org is much more useful for consumers. It is specific to a consumer’s receiving location, has margin built into its prediction algorithm to allow for statistical variations in propagation and implementation errors, and specifies the kind of antenna characteristics needed to assure reception.

⁷⁴ By using AntennaWeb.org, a viewer will be able to see a list of stations that are predicted to provide service to their zip code or address. In areas of good signal strength, an indoor antenna can give excellent DTV reception, but an outdoor antenna provides more reliable reception and will be required in many locations. (The FCC predictions of digital service, e.g., assume use of a 30 foot outdoor antenna.) It is therefore useful to direct consumers to the AntennaWeb.org Web site where they will be presented with important information about the use of antennas.

⁷⁵ As NAB has previously explained, First Amendment issues, as well as questions about the FCC’s statutory authority, are needlessly raised if the Commission attempts to define the precise content and language of consumer education notices. See Joint Comments of NAB and MSTV in MB Docket No. 07-148 (filed Sept. 17, 2007), at 11-14.

Such a notice would not overly alarm stations' entire viewing populations, but will give viewers notice and direction how to confirm which stations they are predicted to receive, particularly if they are experiencing reception problems with particular stations.⁷⁶ And by accessing the AntennaWeb.org Web site, viewers will be presented with important information about antennas, which is a critical component of optimizing and receiving over-the-air television.⁷⁷

Because we believe that the antenna factor is so important to good over-the-air reception, NAB/MSTV agree that stations changing their broadcast frequency from VHF to UHF or vice versa should include in their consumer education activities general information about the potential need for additional or different equipment to avoid loss of service.⁷⁸ A simple statement such as "using a VHF/UHF antenna will help ensure reception of all stations in your local area" will suffice for this purpose. Again, the Commission should avoid dictating the precise language of any such statement.

NAB/MSTV believe other means of notifying consumers about coverage changes proposed in the *Report and Notice* would disserve the educational purposes of the rule and prove to be prohibitively expensive.⁷⁹ Unlike multichannel video programming distributors (MVPDs) reaching out to their paying subscribers, broadcast stations do not

⁷⁶ NAB/MSTV believe that stations cannot provide viewer "information describing areas where analog signal strength is generally sufficient for viewers to rely on an indoor antenna but where it is likely that they will need an outdoor antenna to receive the digital signal." *Report and Notice* at ¶ 64. There are no agreed-upon prediction algorithms and parameter assumptions to model indoor television reception availability, and thus it would be impossible for stations to provide information on areas with analog or digital reception using an indoor antenna.

⁷⁷ Judging by consumer calls that have come to NAB, reception problems often can be attributed to antenna issues as well as to the need to rescan channels.

⁷⁸ *Report and Notice* at ¶ 66.

⁷⁹ *Report and Notice* at ¶ 65 (inquiring about, *inter alia*, direct mail).

have ready access to mailing lists of viewers. They would likely need to use coverage maps to develop a list of zip codes, purchase a mailing list of addresses within those zip codes, and then pay postage fees to mail notices to viewers in these areas. Because there would be no way to distinguish between households that subscribe to MVPD service and those that do not, a direct mail notice would go to many more consumers than are potentially affected by over-the-air service loss issues, creating needless alarm and confusion. Moreover, although MVPD subscribers expect and are accustomed to monthly bills, consumers are not accustomed to mail communications from their free over-the-air broadcast stations. Such unfamiliar notices may not receive the attention that would be given an insert in a monthly MVPD bill. NAB/MSTV are aware that some broadcasters have elected to reach out to their viewers through radio broadcasts or print media, and we believe that stations should have the option to engage in radio or print outreach as part of their overall DTV education campaigns. However, the Commission should not mandate outreach via print or radio because it may not be effective as an across-the-board measure and because it may be an unreasonable burden, particularly for small stations.

Together, broadcasters and the FCC can continue to strengthen our public-private partnership to help consumers transition successfully and smoothly to all-digital television on June 12. But to do so, the right balance must be struck for effective communication of useful information to viewers. NAB/MSTV believe that our suggestions here for information about service loss, rescanning and reception strike that balance.

V. Participation in or Support of the Analog Nightlight Program in a Local Market Should Be Sufficient to Fulfill Consumer Education Requirements For All Stations That Transition to All-Digital Broadcasting

In the *Report and Notice* (at ¶¶ 67-68), the Commission asks whether a station's participation in the Analog Nightlight program is sufficient to negate the requirement for post-transition consumer education on both the station's analog and digital signal. The Commission further asks whether support of a station's participation in the Analog Nightlight program within the same market should also be considered sufficient to meet post-transition consumer education requirements. The answer to both questions is yes, and that flexibility should apply both to stations that have already made the switch on or before February 17 and those stations that will be switching on or before June 12. In other words, stations in markets with nightlight or "enhanced nightlight" analog signals should be exempt from DTV consumer education requirements after they switch to digital. "Nightlight" signals provide adequate and appropriate protection for those consumers that do not make the necessary preparations to receive digital signals by the transition date.

The Analog Nightlight program and "enhanced nightlight" programming are designed to ensure that unprepared viewers "continue to have access to emergency information" and other "information to help them make a belated transition."⁸⁰ Stations that choose to continue analog transmissions consistent with the Analog Nightlight rules will serve as a beacon to those few consumers who were unprepared for digital

⁸⁰ See *Implementation of Short-term Analog Flash and Emergency Readiness Act; Establishment of DTV Transition "Analog Nightlight" Program*, Notice of Proposed Rulemaking, MB Docket No. 08-255, FCC 08-281 at ¶ 1 (rel. Dec. 24, 2008).

television reception.⁸¹ Programs similar to the Nightlight program adopted by Congress have already proven successful in markets, such as Wilmington, that have made the transition to all-digital broadcasting.

Because unprepared viewers will only be able to receive analog transmissions, Nightlight programming is the most appropriate way to reach them and provide them with the information needed to successfully establish digital service.⁸²

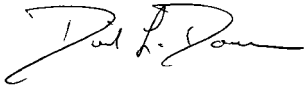
VI. Conclusion

NAB/MSTV urge the Commission to maintain its consumer-oriented focus as we enter the final stages of the transition to all-digital broadcasting. The Commission's rules governing consumer education and viewer notifications should reflect the lessons learned from transitions of stations in the Wilmington, NC and Honolulu, HI markets and across the nation on February 17. NAB/MSTV propose minor modifications to existing or proposed rules that will foster a transition that maximizes consumer preparedness and allows them to fully enjoy the benefits of the digital transition.

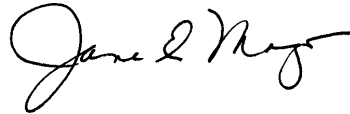
⁸¹ Where possible the FCC should exercise caution when permitting Analog Nightlight station operations on channels 3 or 4. Experience from some of the markets making the transition on February 17 shows that there may be some technical issues with continued operations on these channels and connections from the DTV converter box, a VCR and the analog television set. We are examining this issue and will report back to the FCC.

⁸² See Attachment B enclosing sample emails from viewers expressing displeasure at the amount and frequency and the distracting nature of DTV education notices.

Respectfully submitted,



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March 4, 2009

Attachment A



February 24, 2009

Jonathan Collegio
Vice President, Digital Television Transition
National Association of Broadcasters
1771 N. Street, NW
Washington, DC 20036

Jonathan:

A number of marketing issues arise with the shift from a national transition date of February 17, 2009, to an option of delaying the transition until June 12, 2009.

A central issue is the resetting the DTV countdown clocks. We believe this to be a potentially confusing and counterproductive initiative if undertaken at the national level in the short term.

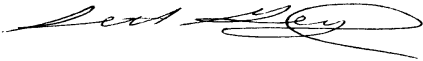
For stations in markets that will be going all-digital on June 12, we would recommend that these stations begin immediately on the re-education process with spots, crawls, snipes and long form news programming, as many already have. But while these stations should be up on the air with new spots promoting June 12 as DTV Transition Day, we recommend that countdown clocks be kept down for a period of several months.

The 100 day countdown that television stations across the country began on November 10, 2008 was extremely effective in creating a sense of urgency leading up to February 17, 2009. Converter box coupon applications increased dramatically in mid-November due in large part to these efforts.

But the sense of urgency created by countdown clocks cannot be maintained indefinitely over time; a perpetual sense of urgency will eventually give way to consumer apathy. Creating a second 100 day countdown clock starting in early March, after millions of consumers saw those clocks nonstop from November 10 until early February, will not have the desired effect of creating urgency – especially in an environment where more than 97% of television households are aware that the transition is underway, and where better than 37% of current OTA household already feel there have been “too many messages” directed at them.

We strongly recommend a breathing period until April before stations begin again counting down to digital in their newscasts and programming. Reinstating the clock at the 60 day mark will provide households with a new found urgency and the time to apply for and receive a coupon if needed. At that point, this “final push to digital” countdown could be started by stations which, after a hiatus, would again create urgency by consumers to take action. To avoid confusion in mixed markets, we recommend that this new countdown be required only in markets where all stations are making the transition uniformly on June 12th.

All the best,

A handwritten signature in black ink, appearing to read "Seth Geiger", with a stylized flourish at the end.

Seth Geiger
President, SmithGeiger, LLC

Attachment B

Viewer Complaints Regarding DTV Education Spots and Crawls

The following emails and Internet postings represent just a small sample of the thousands of complaints broadcasters across the country have received and seen concerning the number of DTV education messages aired in the last few months. In particular, broadcasters have received disproportionate complaints about DTV crawls aired during viewer's favorite programming.

The following comments have been edited to protect the privacy of the viewers.

Sent: Thursday, February 12, 2009 5:56 PM
Subject: switch to digital TV

To whom it may concern,

The switch to digital TV. OK guys the horse died 6 months ago. Let it go please. If some one hasn't heard about the switch to digital TV in the last year the last week before the switch isn't going to help them. I'm tired of hearing about this subject.

I'm expressing my humble opinion which doesn't amount to much.

Thank you for your time,
Mike

Sent: Thursday, February 12, 2009 6:42 PM
Subject: digital conversion crawl

Please discontinue the digital conversion crawl at the bottom of the screen during prime time shows. Put it on only during the news or commercials. If anyone does not know about it by now, they are living under a rock, and do not have a TV anyway.

But really, Wednesday night during Lost, did you look at your channel? That annoying crawl blocked out the shows commentary at the bottom.

Very annoying!

Thanks for the chance to comment.

Sent: Saturday, February 14, 2009 3:44 PM
Subject:

Please stop the crawlers on the bottom of the screen concerning the digital change over. Everyone knows, and if they don't it most likely won't affect them anyway, and when you switch they will figure it out when they don't get a signal. It blocks scores on ball games, and makes it really difficult to get the extra information on setting, etc. on shows. IF you must do it, do it during commercials. We aren't stupid and we can read the paper, Internet and PSA's. You are overdoing it.

Thanks for listening.

Sent: Wednesday, February 11, 2009 10:44 PM
Subject: DTV promo overkill

I completely understand that the FCC demands that each of you keep repeating the DTV changeover mantra and each of you has a stake in seeing that viewers don't lose your programming.

But it's irritating now.

We must now suffer through PSAs, DTV "news alerts" scrolls through our favorite programs, contrived banter about DTV changeover between your on-air staff and "news" stories about the changeover on each of your news broadcasts.

It's gone well beyond being informative and is now at the point where I thumb the off switch.

Sent: Sun 2/15/2009 8:18 AM
To: DTV
Subject: Scroll message

Scrolling your DTV messages across the screen is too much. It is so annoying. I do not want to watch your channel anymore. Do it on the analog signal dummy. Do it on the commercials please.

Sent: Wednesday, February 11, 2009 9:59 AM
Subject: A complaint about the ticker that is running across the screen.

Please, I beg you, stop running the "ticker" about the digital conversion on the bottom of the screen during regular shows. It is so annoying to be watching a first run show that I have been waiting to see only to have part of the shot blocked by something we all know about and have for months, and my attention taken away from the plot of the show. Run it during your own station promotions, not during the actual shows, please.

Posted by: hooray on Jan 28, 2009 at 04:38 PM

Thank God! NO MORE P S A S! If these 6.5 million people haven't bought a box yet, what makes you think they'll get one in the next 4 months? It's not like it has been kept a big secret for the last 2 years.

Sent: Thursday, February 05, 2009 8:19 PM
To: News Share
Subject: Digital Conversion

For the love of God stop airing that damn digital conversion scroll at the bottom off your HD Channel.

I'm not paying extra for HD Channels just so that your station can minimize my picture for the better part of five minutes and scroll that worthless notice to those who will not be affected by the conversion-your current HD subscribers.

Because I have nothing better to do with my evenings I will continue to send this e-mail until your station ceases to air it.

Thanks,
Pissed Off in CB

Sent Monday, February 09, 2009 8:14 PM
To: News Share
Subject: PLEASE Stop!!!

You are absolutely KILLING my viewing experience running your DTV information scrolls. Please stop.

Best regards,
Jack

Sent: Tuesday, January 20, 2009 6:22 PM
To: News Share
Subject: TV 'Not Ready' crawl

Hi!
The crawl across your screen says my TV is not ready. It is. It's also new and HDTV ready.

My cable provider says I'll be fine on February 17, and shouldn't worry.

They say they're getting lots of calls.

In the meantime I find the message annoying and could be alarming to others.

Other than that, you're my favorite channel.

Thanks.

Sent: Monday, February 16, 2009 11:19 PM
To: Feedback
Subject: The CRAWL

Do you have any idea how annoying and distracting is that damned crawl across the bottom of the screen? You will never convince me that it is essential that it be run virtually non-stop during Letterman. During the 10:00 news, it was even running during the news segment explaining the timing of the digital transition! Have you no mercy? I defy you to spend more than a few minutes watching your own station without becoming as annoyed as I now am!!

COB (Cranky Old Bastard)

Sent: Thursday, February 12, 2009 8:46 PM
To: Feedback
Subject: Digital TV captions

Why are you ruining your shows like Survivor with that darn caption in the bottom of the screen after every commercial!! I am furious. Talk about overkill.

Sent: Monday, February 16, 2009 8:43 PM
To: Feedback
Subject: Scroll at bottom of screen

Thought I might ask to see if you could STOP RUNNING THAT SCROLL at the bottom of the TV screen.

Honestly I have met several people in Kansas and I think they/we know that the converter box is coming and don't need reminding every ten to fifteen minutes. WE GET IT!!!!!!!!!!!!!!!!!!!!!!

Also I really like to express a big thank you for running it last night while The UNIT was on so that I and most of the viewing population couldn't read the inserts for when people on the show were talking in a different language.

Again, thank you for all that you do.

Sent: Sunday, February 15, 2009 9:38 PM
To: Feedback
Subject: Analog to Digital Ad constantly running during televised programming

I can understand your wanting to get the word out to the public about switching this week to digital broadcasting. But do you really need to run your information ad every three minutes? It is rather annoying when you are trying to watch a television show and your tape cuts off part of the dialogue because the actors speak in foreign languages and the subtitles are in English, and your tape covers it. (The Unit 9 p.m.). I quit watching the show and changed channels because I got irritated about having to watch this every three minutes.

Sent: Sunday, February 15, 2009 9:21 PM
To: Feedback
Subject: DTV

Why can't you get your engineers to stop running the warning of the transition on the digital channels. If you are watching the digital channel you are ready for the switch.

Come on Feb. 17th -- listening to you run this issue into the ground is getting very old.

Sent: Sunday, February 15, 2009 9:10 PM
To: Feedback
Subject: Digital Transition

I wish you would discontinue the crawler across the bottom of your programming. I can appreciate that you're attempting to communicate the upcoming change. However, for those who don't understand or who are unaware of the change at this time must not be able to read anyway. It is extremely annoying and I think the use of your crawler should be limited to more important issues.

Thank you.

Sent: Thursday, January 22, 2009 4:37 PM
Subject: Viewer News Tip

First we had election ads for two years, now DTV nonsense for a year! The news is the millions of people who don't need this crap and the ones that made corrections in a timely manner, are sick to death hearing about it. Enough is enough!

Sent: Thursday, January 15, 2009 2:28 PM
Subject: Viewer News Tip

If the state put as much effort into adult literacy or climate change we would lead the world with our progress. It is only TV!!! At this point every man, women, child and cat in this state is aware of the pending crisis. Please, enough is enough. The last few morons that have not converted at this time will have to endure the horror of NO TELEVISION for a day until they get with the program.

Sent: Friday, January 16, 2009 5:54 PM
Subject: Website Feedback

I can't be the only one who thinks this is more overdone than y2k. I mean is there anyone out there that is that stupid they haven't figured this out yet. What is the worst that can happen? I have been tuning in to Channel 7. I would say your coverage of this is about 500 percent over channel 7. Thank you for making me sick.

Sent: Thursday, January 15, 2009 1:24 PM
Subject: Website Feedback

I would like someone at the station to tell me why so much time is devoted to the analog to digital conversion. Are you paid by the Federal government to tell us about the impending change ad nauseum? Or is it all public service announcements? It is really becoming annoying and I frequently change to a different station when Ch. 9 launches into the same spiel for the 5th or 6th time during the nightly news. Please don't show the message more than twice in an hour. Also, how many people in the Ch. 9 viewing area are actually affected by this transition?

It must be millions based on how your station has flogged the event. A reply would be nice but not expected. Thank you for your attention.

Date: 17-JUL-2008 08:20PM

I am so tired of your DTV spots. We all do understand about digital TV and what happens in 2009. We have understood for lots of months now.

Please stop them. You are treating us like total idiots. I'm at the point where it's not long that your station will not be in my house: digital or analog.

Sent: Wednesday, December 31, 2008 7:07 PM
Subject: DTV information

Do really need to keep putting those LONG DTV information ads on the bottom of the screen? It's been going on & on already, on the New Adventures of Old Christine.

Give it a break.

Sent: January 27, 2009 10:12 p.m.
Subject: Website Feedback

MESSAGE:

If there is a single soul who doesn't know about the digital TV conversion, they must have just woke from a coma!

Could we please, please get on to something else? This is reaching infomercial proportions!

Sent: Monday, February 23, 2009 9:45 p.m.
Subject: Website Feedback

MESSAGE:

WHAT IS WRONG WITH YOU PEOPLE??? Every 10 minutes we have to see the "HORRORS" that are going to happen if we're not ready for the Transition. Now the gov has changed the transition date to June and we, your poor listening audience, have another full FOUR months of you telling us that it is coming. You're sick. Find something else to have us worry about.

Sent: Monday, February 23, 2009 12:11 a.m.
Subject: Website Feedback

MESSAGE:

You people are out of control with the need to constantly update the world that DTV is coming. Every day I bother to watch your broadcast I get more and more disgusted with the inundation of DTV. We all know it's coming. Get something new to talk about.

Sent: Tuesday, February 17, 2009 6:07 p.m.
Subject: Website Feedback

MESSAGE:

I am sick and tired of hearing about the change over from Analog to Digital TV. *Why* are you people making such a big deal about this?

Sent: Friday, February 06, 2009 6:43 PM
Subject: TV coverage

Now that they have extended the date to June, can you please give us a break and stop talking about it for a few months? If people do not know by now the steps that they need to take, then they aren't paying attention. I am TIRED of the ads and media blitzes. If my students ignored a deadline that I set, and then procrastinated and complained that they were not ready, I would not extend the date. We who own cable pay for the privilege every month. I see no issue in those without cable paying \$50 to have access to TV. It is just one more case of waiting for the government to bail them out.

--Sherry

Sent: Thursday, February 05, 2009 2:11 PM
Subject: I can't believe they are extending this!

We have been listening for over a year about this change. If people aren't ready by now, they are not going to be ready in 4 months. But I imagine this is going to cost all of us a lot more money to keep advertising and everything else. In times of economic hard ship it is absolutely ridiculous that we are going to continue to spend money on this.

Is NH the only state that has gone to great lengths to get people ready?

Sent: Tuesday, January 13, 2009 9:13 PM
Subject: Website Feedback

MESSAGE:

There are too many *DTV* alerts.
You have been running these for months. Can't you cut back? Most of southern NH has cable, and Northern NH has to get a special box, but do we have to hear about it 25 times a day!

Sent: Tuesday, January 13, 2009 2:24 PM
Subject: Website Feedback

MESSAGE:

I am sick of hearing about it. Every day several times each day there is an ad about DTV. Don't you think we all know about it by now? It has been all over the news since last fall. We get it. I am sure that even the people who do listen to TV over an antenna have gotten the message. How could they not! One only has to watch the news one time, on any channel. How could they not know by now? Even if they did not know, they probably do not watch TV enough to care. Please stop. I am tired of hearing about it.

Sent: Monday, January 5, 2009 6:10 p.m.

Subject: Website Feedback

MESSAGE:

Please stop wasting too much valuable air time on this message. If anyone has not heard this message by now, they live in a dark cave overseas. You're getting too boring -- worse than the primaries!

Sent: Wednesday, December 17 2008 7:33 p.m.

Subject: Website Feedback

MESSAGE:

PLEASE STOP WITH THE CONSTANT DTV REMINDERS. WE ALL GOT THE MESSAGE. YOUR STATION APPEARS DESPERATE IN SOME WAY. WE ARE ALL AWARE. FIND SOME OTHER WAY TO HOLD ONTO VIEWERSHIP. DON'T BE AFRAID. WE'LL ALL CONTINUE TO TUNE IN- UNLESS YOU KEEP BORING US TO DEATH OF COURSE WITH THE BARRAGE OF REMINDERS.

I was watching 60 Minutes a few minutes ago when something started scrolling along the bottom of the screen; naturally I began to follow the scrolling. I became angry when the picture I was watching was being interrupted by some event that will happen in February of 2009 (10 months from now) regarding digital television conversion. Further, this announcement has been aired over and over by the networks; was it really necessary to scroll it during 60 Minutes? When I see something scrolling I pay attention because it has been something of value (weather condition, etc.). What happened today has cheapened the importance of that form of communication. I hope the decisionmakers will only use this form of interruption when it is necessary, not for something that is as cheap as announcing an event that will happen in 10 months regarding a TV conversion.

I think you have made a very poor decision in waiting until June. This has been public knowledge for over a year. All you are doing is penalizing those who got ready on time. Those who are not ready today will not be ready in June either. Now we have to watch

your sorry ads for how to be ready for DTV for another 4 months. I hope some other local stations switch over so I can watch another station.

Please....just switch your analog signal off on Feb 17 -- people that are not prepared on Feb 17 will not be ready on June 12. Make the changeover -- people will catch up. Many of us are tired of all the ads and warnings and pacifying the procrastinators. Do it!

Comments:

I just want to comment on your "The Big Switch" campaign. I think you should increase the amount of ads you run, because I think there are a few deceased people in Greenlawn Cemetary that haven't heard of it.

It is getting ridiculous the amount of ads you are running about this. Are you afraid that you might lose one or two viewers or are you afraid that the viewers will blame you for the switch? Please, do us all a favor and at least decrease the airing of at least one or two ads a day.

GEEEEEEEEZ.

Good morning:

I think our local stations have done an excellent job informing consumers about the upcoming switch to digital. More than that, you've promoted open phone banks over and over again to field questions. I suspect Mr. Obama is concerned for areas that did not go to such great and thorough lengths to clarify and educate.

It seems to me that 18 months should have been PLENTY of time for consumers to take action in preparation. Quite frankly, any further delay isn't going to guarantee any better results. People are going to procrastinate, bottom line.

So I think that you should go ahead and make the switch in February. We're ready. Let's set the standard for our fellow states -- show 'em how it's done!

Keep up the good work! I brag to my family back in NC and VA all the time about the news coverage down here.

Sincerely,

Amy