

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
Implementation of Short-term Analog Flash ) MB Docket No. 08-255  
and Emergency Readiness Act; Establishment )  
of DTV Transition "Analog Nightlight" Program )  
 )

To: The Commission

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

**I. Introduction.**

The National Association of Broadcasters ("NAB")<sup>1</sup> and the Association for Maximum Service Television, Inc. ("MSTV")<sup>2</sup> hereby submit these reply comments in response to the Commission's *Notice of Proposed Rulemaking* in the above-captioned proceeding.<sup>3</sup> Broadcasters recognize that it is in our nation's best interest to have a comprehensive plan to answer viewer questions that arise at the time of the digital television ("DTV") transition, one that includes contingencies for persons that may not have taken the necessary steps to be prepared by February 17, 2009. Thus, NAB, MSTV and their members have been strong supporters of the Short-term Analog Flash

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<sup>1</sup> NAB is a nonprofit 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, the Courts, and other federal agencies.

<sup>2</sup> 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.

<sup>3</sup> *In the Matter of Implementation of Short-term Analog Flash and Emergency Readiness Act; Establishment of DTV Transition "Analog Nightlight" Program*, MB Docket No. 08-255, Notice of Proposed Rulemaking (rel. Dec. 24, 2008) ("*Notice*").

and Emergency Readiness Act.<sup>4</sup> As discussed in our initial comments, implementation of the voluntary “Analog Nightlight” program is an important consumer education resource. As such, we made recommendations to (1) expand stations’ eligibility beyond current Appendix A to ensure the maximum number of Americans can receive the “Analog Nightlight” program with minimum disruption to DTV reception, and to (2) streamline the application process to ensure maximum broadcaster participation in the voluntary program.

## **II. The Commission Must Provide Flexibility For Stations To Air Emergency Information.**

Broadcasters are in full agreement that Nightlight stations should provide emergency information. As in implementing other aspects of the Nightlight program, we ask the FCC to grant broadcasters maximum flexibility in implementing our obligation to communicate emergency information during the short period of time that Nightlight stations remain operational. For example, in most instances, the studio transmitter links (“STLs”) that broadcasters use to transmit real time emergency and Emergency Alert System (“EAS”) information will be used to connect the studio to the digital transmitter. As a result, a similar connection may not be available for the Nightlight station. At this stage in the transition, there is simply not enough time, or in many markets, sufficient spectrum, to obtain a new STL license for the Nightlight station. Many broadcasters will use servers, located at the analog transmitter, to provide the DTV related information on the Nightlight station. An issue may arise, however, if there is late breaking emergency information. At this point, the only effective means of communicating the emergency information from the studio to the Nightlight station will be to “tap” into the station’s STL,

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<sup>4</sup> S. 3663, 110<sup>th</sup> Cong., as enacted December 23, 2008 (“Act”).

which will be feeding the digital facility. However, tapping into the STL means that the station's standard news and emergency programming may be broadcast over the Nightlight station. Consequently, traditional programming may appear on the Nightlight station. In many situations this may be the only way to provide emergency information in a timely manner.

Broadcasters are examining engineering solutions to these types of "real world" problems. As supporters of the Nightlight statute, we understand our obligations to provide DTV related and emergency information. Because of the uniqueness and short-term nature of this situation, however, we believe broadcasters must have the flexibility to address these practical implementation problems, including how to best provide emergency information to the community over the Nightlight station.

We urge the Commission to focus on the underlying purpose of the Act. The goal should be to provide incentives for eligible stations to participate in this voluntary program in order to keep their communities informed. As explained above, stations need the flexibility to meet a variety of unique engineering challenges, especially in communicating emergency information. In adopting rules in this proceeding, the Commission can make clear the general obligation of Nightlight stations to provide emergency information, yet still give stations the necessary flexibility as to how to implement this important obligation during the limited duration of Nightlight station operations.

### **III. The Commission Should Permit Simple Notifications For “Analog Nightlight” Stations.**

As discussed in our initial comments, broadcasters urge the FCC to adopt streamlined notification procedures for stations participating in the “Analog Nightlight” program.<sup>5</sup> After additional consideration and discussion with station personnel and Commission staff, we believe that further streamlining is both feasible and appropriate. For stations appearing on the Commission’ final list of eligible Nightlight Stations (*i.e.*, those stations not required to file a separate engineering statement to participate) a simple electronic notification should be sufficient. This could best be implemented through a dedicated electronic email address notification. This process was employed in the radio context for stations opting to provide digital radio service.<sup>6</sup> NAB and MSTV will work with the Commission to help coordinate the “Analog Nightlight” program in an effort to increase station participation and expedite compiling the list of participating stations.

### **IV. Conclusion.**

Broadcasters are committed to the successful completion of the DTV transition and look forward to working closely with the Commission in the coming weeks as we implement the Analog Nightlight service, the national hotline and educate consumers

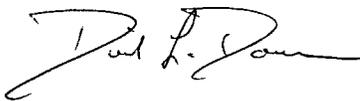
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<sup>5</sup> See Comments of NAB and MSTV, *In the Matter of Implementation of Short-term Analog Flash and Emergency Readiness Act; Establishment of DTV Transition “Analog Nightlight” Program*, MB Docket No. 08-255 at 8 (filed Jan. 5, 2009).

<sup>6</sup> By Public Notice dated March 20, 2003, DA 03-831, the FCC announced a simplified notification procedure for commencement of in-band, on-channel (“IBOC”) digital transmissions. This replaced the requirement that radio stations obtain STA prior to the initiation of IBOC transmissions. See 47 C.F.R. sec. 73.404(e).

about the steps they will need to take to upgrade. For the foregoing reasons, we urge the Commission to implement the recommendations articulated in our initial comments, as well as provide (1) flexibility for emergency information programming and (2) simple email notification for eligible Nightlight stations, to help ensure station participation.

Respectfully submitted,



David L. Donovan  
ASSOCIATION FOR MAXIMUM  
SERVICE TELEVISION, INC.  
4100 Wisconsin Avenue NW  
Washington DC 20016  
(202) 966-1956



Jane E. Mago  
Jerianne Timmerman  
Ann West Bobeck  
NATIONAL ASSOCIATION OF  
BROADCASTERS  
1771 N Street NW  
Washington DC 20036  
(202) 429-5430

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