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STATUS OF THE DTV TRANSITION: 154 DAYS AND COUNTING

HEARING

BEFORE THE

SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET

OF THE

COMMITTEE ON ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

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STATUS OF THE DTV TRANSITION: 154 DAYS AND COUNTING

TUESDAY, SEPTEMBER 16, 2008

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TELECOMMUNICATIONS
AND THE INTERNET,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 9:33 a.m., in room 2123 of the Rayburn House Office Building, Hon. Edward J. Markey (chairman) presiding.

Members present: Representatives Markey, Doyle, Harman, Gonzalez, Inslee, Hill, Eshoo, Green, Capps, Solis, Dingell (ex officio), Stearns, Deal, Shimkus, Wilson, Walden, Terry, and Barton (ex officio).

Staff present: Amy Levine, Tim Powderly, Mark Seifert, Colin Crowell, Philip Murphy, Neil Fried, Courtney Reinhard, Ian Pillner, and Garrett Golding.

OPENING STATEMENT OF HON. EDWARD J. MARKEY, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF MASSACHUSETTS

Mr. MARKEY. Good morning. Today we hold yet another oversight hearing on the status of the digital television transition. The goal of today's hearing is to extract lessons from the recent test in Wilmington, North Carolina to assess ongoing governmental efforts towards a successful transition, to examine consumer education initiatives and ways to improve them, as well as to raise other policy issues affecting the future of digital television. This subcommittee has held several hearings, this Congress, on the transition to focus attention on the preparations and policies necessary to ensure success.

In addition, I tasked the Government Accountability Office over 2 years ago with the job of examining this transition and all of it has been done in a very, very excellent way by the GAO, and this top notch job has delved into the governance, technical, and consumer education aspects of the transition. This morning we received a fresh report from the GAO on the status of transition efforts. With 154 days left until the shut off, we need to gauge current consumer and industry preparedness for this transition. We are also eager to provide and receive suggestions for additional outreach or policy improvements to minimize consumer disruption, particularly for the elderly, individuals with disabilities, minority households and Latino households along the border with Mexico.

Since our last hearing on this important subject, we have had the pilot test in Wilmington. This isolated test was a valuable experience. It demonstrated that with focused efforts, general awareness of the transition in a relatively small market can be raised to fairly high levels. However, just below the general awareness detailed consumer knowledge about how to properly hook up converter boxes, put up antennas or take other similar steps necessary to receive the new digital channels was apparently deficit. In addition, other North Carolina households suffered from loss in the coverage areas of particular broadcast stations where the digital signal failed to reach historically served households.

These in-home implementation issues and for many consumers unexpected signal loss caused understandable confusion and frustration. Chairman Martin, in my view, correctly stated after the test that the measure of success isn't Wilmington per se, but rather how we learn from Wilmington to ensure success next February. I want to commend the Commission, the NTIA, and non-governmental stakeholders for their efforts in Wilmington. To address the specific problems identified in the Wilmington test, however, will undoubtedly prove challenging on a national scale. To extrapolate what might happen nationally from this test may be difficult but it is clear that a fairly significant number of consumers in Wilmington called stations or the FCC with implementation problems at home.

Moreover, if coverage areas of broadcasters purposely shrink or are otherwise diminished in more densely populated markets than Wilmington consumer ire from both of these issues could come from hundreds of thousands or millions of consumers nationally next February. We must also be cognizant of the fact that Wilmington received extraordinary attention and resources for this test. Such a focused effort will be difficult to replicate on a national scale. The good news is that we have 154 days left prior to the national analog shut off. The bad news is that we have only 154 days left prior to the shut off. That leaves us precious little time for the FCC, the NTIA and the industry to make final preparations and contingency plans for several key aspects of the transition.

I look forward to hearing from our witnesses, and I thank them for joining us this morning. The ranking member of the committee will be here momentarily. He has been delayed with an important matter, but perhaps at this point I could recognize the gentleman from Nebraska, Mr. Terry, for his opening statement.

OPENING STATEMENT OF HON. LEE TERRY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. TERRY. I appreciate that, Mr. Chairman, and thank you for your due diligence in tracking the roll-out and the preparedness, and frankly I have been very pleased in our community, the Omaha area. All of our over-the-air TV stations including the NETV station, Nebraska Educational Television stations, as well as all the networks, it seems like you can't go an hour or two without them running a PSA. Our community has been very involved. We have United Way advertising their 211 number if anyone has any questions. Also, the teleservices in our community, some of our teleservices corporations have been contracted by NTIA to be able

to accept the telephone calls from the consumers, the same entities that work with other government agencies when we are going to receive volumes of calls.

So I think we are getting the message out. We are becoming prepared, and most people understand. There are some issues that arise. First of all, we want to make sure that our teleservices that are going to be the first line of communication between the government and the consumers are adequately funded and the contracts are in place. Secondly, with some of our NETV already switching over to digital only, we are learning some of the same lessons of Wilmington in that the distance of the signal seems to be different than the analog where the cliff where they would receive some picture, before they were receiving no digital picture. And we are receiving calls, and of course we are working with them to try and get the power booster antennas up. Again, that is just an additional cost to the consumer.

The other issue that we seem to have, and I would like to hear this from Secretary Baker, is the coupons. We are getting calls from people that have lost or misplaced or even had purses stolen with their coupons in it, and they are finding it difficult. They are being told, no, once we send them to you, you don't get a replacement. And I think those are rare, but I think we need to be flexible in our responsibility to make sure that the people who need a coupon if it has been lost or stolen can be replaced. With that, one last part in reaching out to our Hispanic community, I am pleased that the FCC and TIA have been sending people around to see how the roll-out is going.

You came to Omaha and we walked the Mercado handing out flyers and posters to make sure that we got the penetration within our Spanish-speaking Hispanic community so I do think that we understand what the issues are and are doing an adequate job of addressing those. I yield back.

Mr. MARKEY. The gentleman's time has expired. The chair recognizes the gentleman from Texas, Mr. Gonzalez.

Mr. GONZALEZ. Waive opening statement.

Mr. MARKEY. The chair recognizes the gentleman from Indiana, Mr. Hill.

OPENING STATEMENT OF HON. BARON P. HILL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. HILL. Thank you, Mr. Chairman, and thank you for holding this hearing and also to the panel of witnesses for the opportunity to discuss the progress of digital television. First I would like to congratulate both Wilmington, North Carolina and community leaders and Chairman Martin for the successful transition to digital television. There were concerted efforts by broadcasters, Federal agencies, grassroots organizations, service providers, community leaders, and retailers to educate Wilmington residents about the early transition date. While these efforts, as we all know, were basically successful, the FCC, you did receive over 800 calls about the transition. Calls ranged from consumers who had no prior knowledge of the transition, consumers who had issues with the converter box coupon program, as Representative Terry was speak-

ing about and consumers who had technical issues with either the converter box or reception.

Using the Wilmington cause as a basis, the national DTV transition could spur millions of calls. The FCC call center should be prepared for a large influx of calls after February 17. I hope that all resources can be harnessed nationally to provide the same level of consumer saturation for the DTV national transition as we saw in Wilmington to reduce or prevent confusion and calls on the day of transition. All entities, including Congress, must continue to provide consumer education, and I encourage new organizations to get involved so we can reach all populations. Thank you again, Mr. Chairman, for holding this hearing. I yield back the remainder of my time.

Mr. MARKEY. The gentleman's time has expired. The chair recognizes the ranking member of the subcommittee, the gentleman from Florida, Mr. Stearns.

Mr. STEARNS. Good morning and thank you, Mr. Chairman. I am glad to be here for this hearing. I don't know what number this is for the DTV transition, but obviously the more the merrier especially after our demonstration in Wilmington, and I thought it was a great success. I notice in the hearing, Mr. Chairman, that you have nine witnesses on the second panel, so I hope we all can stay for those nine witnesses. It is 154 days away from the transition, and I believe consumers are well prepared for this transition. As of early August, 91 percent of households had one or more televisions with a digital tuner or connected to a pay service or converter box according to Nielsen. Almost 80 percent of households, every television had a digital tuner or was connected to a pay service or a converter box, thus, with more than 6 months still to go only about 8.9 percent of households were relying exclusively on analog over-the-air television and still needed to take action to continue watching television for the transition.

As of early September, 10 million coupons had been redeemed and another 7½ million coupons were still in circulation. One hundred fifty-six converter box models, different models, had been approved for purchase with the coupons, 82 of which can pass through the analog signal for low power stations. While a converter box cannot display digital programming and high definition on an analog television, it will improve the video and audio and will also enable the analog television to receive digital, multicast programming over the air for free. Advance non-coupon eligible converter boxes are also available such as the ones that include digital recording features. While the NTIA sends coupons, it includes a list of participating stores that are near and close to the customer. So far the NTIA has certified 2,300 retailers with a total of 29,000 store locations to participate in the program.

Consumers can also redeem coupons with 35 online retailers and 13 phone retailers. It is also worth noting that consumer satisfaction with a converter box is off the charts. Retailers say they have never seen electronic devices with such low return rates. Another positive aspect of the transition was the apparent success of the September 8 test transition in Wilmington, North Carolina. By all early indications the test went well. Less than half of 1 percent of the 180,000 television households in the Wilmington area called

the FCC with questions that day indicating that most consumers were ready and able for the transition. Of the 797 calls, most were from viewers who were aware of the transition and who had obtained the converter boxes but did not know how to scan channels or perhaps did not have the right antenna to use with the converter box.

Another positive development from the Wilmington test was that churches, firefighters, and other local groups were helpful in getting the word out and helping consumers to install the converter boxes. A number of students from nearby Elon University also helped local broadcasters and cable operators take phone calls and answer questions. In light of this information, government and industry should now focus their consumer education efforts on exclusively over-the-air. Households should encourage consumers to try the converters boxes early, sort of a simulated test, and should educate them on how to set up the boxes and their antennas.

Local broadcasters should also work with churches, firefighters, schools, and other grassroots groups to help prepare consumers and answer the phone to answer their questions. So, Mr. Chairman, as you can see we are on the right track. This does not mean that we can rest completely at ease. There will always be some people that have trouble. As we get closer to February 17, 2009, we need to remain extra vigilant to insure that the transition goes just as smoothly as possible. These are important issues. So thank you, Mr. Chairman, for holding the hearing, and I look forward to hearing from the witnesses. Thank you.

Mr. MARKEY. The gentleman's time has expired. The chair recognizes the gentlelady from California, Ms. Eshoo.

OPENING STATEMENT OF HON. ANNA G. ESHOO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. ESHOO. Good morning, Mr. Chairman, and thank you for your consistent attention to the DTV transition. I think that the ranking member expressed it well when he said I don't know what number of this hearing represents but there have been a lot of them. I think for all the years that I have been on this committee we have been dealing with moving up to this moment, so the time is just about at hand.

Last week Wilmington, North Carolina transitioned early as a part of the FCC's test market. The FCC provided local viewers with a 1-800 helpline, which is good, and based on the analysis of those calls, 19 percent of all callers said that they had some difficulty with the converter box. Based on these numbers, I think that we might not be adequately explaining how to install the converter boxes. I think that is what it points to. So I am eager to hear from our witnesses today how these numbers are being analyzed and if there will be changes to the outreach programs based on the data that was secured from this.

I also want to call attention to the number of calls. The FCC estimates that 14,000 households in Wilmington only receive free over-the-air broadcasts. In 5 days there were 1,828 calls. So I think it is fairly safe to assume that the vast majority of those callers are free over-the-air households. I don't know if that is a correct as-

sumption but I am assuming that. That means that about 13 percent of those households had an issue. If those numbers translate nationally the help line is going to be flooded with more than a million calls in a few days after the transition so my question that I hope you will address is, is the transition in place to adequately respond to all of these calls?

It has also come to my attention that on December 31st of this year a substantial number of retransmission consent agreements are going to expire. If recent history is any guide there is a significant risk that more than a few of the stations covered by these agreements could go dark on cable networks in January, just ahead of the transition date. I support a "quiet period" beginning before the end of this year and extending for a reasonable period of time after the transition date to insure that consumers are not subjected to additional confusion and disruption. I hope and I urge both the broadcasters and the cable operators to quickly negotiate these consent agreements well before or after the transition date. I am afraid that there will be some confusion and we don't need any added confusion of a retransmission consent dispute that would, I think, really hurt consumers preceding the transition.

So, Mr. Chairman, I think these hearings have been enormously helpful both to us and to the agency that has to implement the change, and I look forward to asking questions and thank all the witnesses for being here.

Mr. MARKEY. The gentlelady's time has expired. The chair recognizes the gentleman from Texas, Mr. Barton.

Mr. BARTON. Thank you, Mr. Chairman. I am going to put my written statement into the record and I commend you for holding the series of hearings on digital transition. It appears to be going well. I appreciate our panelists being here especially the chairman of the FCC, Chairman Martin, and with that I yield back.

[The prepared statement of Mr. Barton was unavailable at the time of printing.]

Mr. MARKEY. The chair recognizes the gentleman from Michigan, the chairman of the committee, Mr. Dingell.

OPENING STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. DINGELL. First of all, I commend you for the hearing and for your longstanding and continuing interest in the subject matter of this hearing. It is going under your leadership to be, I am satisfied, a most helpful event.

I welcome the witnesses to the committee's sixth hearing on this matter of digital television and the transition. As I have said before, DTV transition is a critical consumer issue facing the committee this year, and it is essential that we continue to address outstanding issues as February 17, 2009, draws closer.

Just a week ago, stations in Wilmington, North Carolina transitioned to digital. These stations deserve accommodations as do cable, satellite providers, and the DTV transition coalition, NTIA, and the Federal Communications Commission for their efforts. The DTV transition test evaluated and revealed many problems, including consumers who could not connect their converter

boxes to the televisions and did not know they needed to rescan their boxes to search for new channels and did not know they needed to obtain or adjust antennas to receive digital signals. These are warnings to us that must be heeded.

In Wilmington, the FCC paid the fire department to make house calls to help connect the converter boxes, a very forward-looking step. I look forward to hearing from Chairman Martin as to whether the FCC will have the resources to provide such assistance nationwide and whether it will be desirable. We will also need to know what it is that he and the Commission learned from this part of the experience and all the rest. If not, we will have to call on FCC, NTIA, the DTV transition coalition, state and local governments, community organizations, consumer groups, retailers, manufacturers, broadcasters, cable and satellite providers, and others with a stake in this transition, to work together to insure that appropriate information and, when needed, in-home assistance are available to those who need help in setting up converter boxes and acquiring or adjusting antennas. I will also be expecting that the broadcasters will inform viewers as they have been doing if they will not be maximizing their digital signals until after the transition. We cannot have a repeat of the problems from Wilmington when the Nation transitions on February 17, 2009.I am pleased that the hearing today will address issues raised by Ms. Solis's DTV Border Fix Act. This is a matter that needs scrutiny of this committee and there are problems there that do have to be addressed. Both the culture of the border region and the fact that the households there can often receive both U.S. and Mexican over-the-air signals are unique and they are different than the problems that exist with regard to the Canadian border regions where I come from. These are also some of the poorest regions in our Nation, making the coupon subsidy even more important to them. We must ask the FCC and NTIA to pay special attention to this region and their consumer education efforts. I look forward to working with Ms. Solis to insure that we meet the needs of these communities, which amongst everything else are largely bilingual.

I am also interested in looking forward to hearing from Assistant Secretary Baker about NTIA's proposed legislation for additional administrator funds for the converter box coupon programs. I would like to hear why, if NTIA was prepared to recycle expired coupons, it did not budget sufficient administrative funds for that purpose.

I am also curious to know whether or not the contract that was let between NTIA and the contractor will be able to accommodate the circumstances here. I also reiterate at this time what I have written NTIA before—that we cannot balance this planning error on the backs of consumers. I must confess myself much disappointed that NTIA's proposal is drafted so that each dollar spent to make up for NTIA's administrative shortfall is a dollar taken away from the funds set aside to provide coupons to the households that need them. That is a matter that will have to be addressed and I will be difficult to satisfy on this matter, for just 154 days remain until—154, 164, 10 days less, remain until February 17, 2009. We are then entering the home stretch. It is critical that we prepare for, understand, and be able to predict the problems and

outstanding issues that are related to the transition so that no household is left behind and so that we are fully prepared to handle the matter efficiently and expeditiously and well.

Mr. Chairman, again thank you for your leadership and for holding today's hearing. I yield back the balance of my time.

Mr. MARKEY. The gentleman yields back the balance of his time. We now turn and recognize the gentleman from Georgia, Mr. Deal.

Mr. DEAL. Mr. Chairman, I would pass and reserve my time for questioning.

Mr. MARKEY. The gentleman reserves his time. The gentleman from Oregon, Mr. Walden.

OPENING STATEMENT OF HON. GREG WALDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. WALDEN. Thank you very much, Mr. Chairman. I appreciate your having this hearing as we keep track of the DTV transition. I want to commend the broadcasters and the cable casters for aggressively educating the American consumer about what is ahead. I think they have done a terrific job in getting the word out. I can't turn on my own TV without seeing at least one message about the transition or it appears from all the data that we have before us that indeed we are seeing a high success rate in conversions already and we still have 6 months or 5 months to go. And so I am real pleased with that. I do want to hear more about the Wilmington transition situation.

I am going to take the testimony. Unfortunately, I have an energy subcommittee hearing that starts in about 3 minutes and a classified briefing on the energy grid I am going to have to step out for. And speaking of energy, Mr. Chairman, I guess I have to just express this. I know this is a DTV hearing. I am just really disappointed the speaker doesn't have as much respect for this committee as those of us who are on it have and that we have a 299-page energy bill that was filed with the Rules Committee last night at 10:45 that I doubt anybody on this committee has seen or read that I understand is going to be on the floor today with no hearing and no markup, and it is really unfortunate that the speaker has decided to run the House over the top of our distinguished committee chairs and the committee process and bring a 299-page bill to the floor today.

And I just want to say that it is really frustrating being on the Energy and Commerce Committee to have that happen. I yield back the balance of my time.

Mr. MARKEY. The gentleman's time has expired.

Mr. STEARNS. Would the gentleman yield just for a moment?

Mr. WALDEN. I would yield to my colleague from Florida.

Mr. STEARNS. I would just follow up on that point. It is not only that, but the Rules Committee met and made sure that there are no amendments allowed so in addition to closing down everything and preventing amendments, it would just be an up or down vote on a bill that we haven't seen. In fact, the bill is going to be offered, I understand, a little bit different than the summaries that have been circulated from both sides so people on the Democrat side as well as Republican side have actually no idea what is in this bill. This is crucial to the long-term future of our country so I think the

gentleman makes an excellent point that in this kind of environment to see an energy bill come on the floor, closed rule, with no opportunity for anyone to know what is in it is just a very sad situation. I thank the gentleman.

Mr. WALDEN. And reclaiming my time, not only is it sad, it so degrades the legislative process in my opinion. If you can't do amendments, if you can't see the bill, and you are required to vote on the biggest issue facing this country is energy. It is undermining our entire economy right now. Energy is the issue, and it is one we need to deal with thoughtfully, carefully, deliberately through the legislative process. That is what the 700,000 or thereabouts people I represent, and each one of us represents, expects out of us, not something written in secret, filed in the dark of night at 10:45 with the Rules Committee, up at 10:00 today on the House floor, 299 pages. And I doubt anybody on either side of the aisle has read this.

And so, Mr. Chairman, I understand we have a DTV video clip that we have agreed to show and so if that is possible.

Mr. MARKEY. The gentleman's time has expired.

Mr. WALDEN. All right. Thank you, Mr. Chairman.

Mr. MARKEY. Why don't we just finish, and we will come back over to this side. The chair recognizes the gentleman from Washington State, Mr. Inslee.

OPENING STATEMENT OF HON. JAY INSLEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. INSLEE. Well, I feel badly that my Republican colleagues are sad, depressed, anxiety-ridden. I don't have any medication for that, but I can understand their depression. They have been voting on energy against every single way we have to break our addiction to foreign oil for the last several years and today and tomorrow they will be, and here is the joy, I will try to spread some joy here, today our Republican colleagues will be given another opportunity, their last opportunity of this Congress to vote for solar energy instead of against it, to vote wind energy instead of against it, to vote for enhanced geo-thermal energy instead of against it, to vote for plug-in hybrid cars instead of against it, to vote for American ingenuity and innovation to develop a new clean energy non-carbonized system of against it.

They will get to vote for a 15 percent renewable portfolio standard instead of against it. They will get to vote for giving Americans a break when they buy plug-in hybrid cars instead of the oil companies a break when they put all their money offshore. They will get to vote for increased efficiency standards instead of against it. So they have some anxiety now, but I hope they will take the opportunity to join us today to really adopt a high tech energy future for this country, and I am sincere in that hope, and I think many of them will. I think it will be a good day to move forward.

Addressing the subject of this hearing, I do hope that we will hear today about how to help Americans understand how to actually apply this technology. The experiments that we have had have suggested there are some problems about that. I still think that we need to respond to this like we did to Gustav and the hurricane and not Katrina, and we are not done yet. And I hope we will keep

the eye on the ball to figure out a way to help Americans actually get these things installed correctly. The test case demonstrates the weaknesses of that, and I will look forward to a discussion of whether we need that $7 million for flexibility to actually get the word out as well. Thank you.

Mr. MARKEY. Thank the gentleman. This reminds me, my favorite twin bill of all time was at the Harvard Square theater about 30 years ago. It was Dr. No and Dr. Strangelove, two really great movies on a twin bill, $3.00 plus your popcorn. Great. And you don't often get the DTV and energy issues all in one hearing, so all of you, it is all for the price of one admission to the same hearing. Let me turn and recognize now the gentlelady from New Mexico for her opening statement.

OPENING STATEMENT OF HON. HEATHER WILSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW MEXICO

Ms. WILSON. Thank you, Mr. Chairman. I also share the concerns of my colleague from Oregon. This used to be the premier committee in the House of Representatives. We worked on important issues. I remember markups here where we were here until 2:00 or 3:00 in the morning and there was a series of hearts games going on in the back because we were working through legislation. We were debating things important to the country. And now we are going to take up an energy bill on the floor of the House that no one on this committee has even read. What are we here for? And I just am appalled at how the system has broken down in the Congress, the fact that the Congress is no longer functioning as a body that deliberates and passes legislation.

So we just bring things to the floor that aren't going to become law, nobody ever considers them, nobody reads them. This is a joke, and it has made this committee a joke. And what I am most disappointed in is that the leadership, the Democratic leadership of the Energy and Commerce Committee, is allowing this to happen, is going along with this way of doing business. We had Energy markups in 2001, 2005, 2007 that went on for days in this committee, but we worked it through, we considered amendments, and we legislated. That is what people sent us here to do. We are abdicating our responsibility, and we might as well close down this committee if that is the way we are going to run things.

So today we are going to talk about DTV. I am not sure this committee would ever do anything if the Democratic leadership decided they wanted to change something about the DTV bill, particularly as I think that it is going to be a real mess when it actually gets rolled out in the real world. I don't know about you, but my TV doesn't hook up to anything. We don't have cable. We don't have satellite. We don't have any of that stuff. I live in a neighborhood that is a pretty mixed neighborhood, and I can guarantee you that when we go through this conversion, I am going to hear about this at the post box at the end of my dirt road because government can do a whole lot of things but you mess up people's televisions and they are going to get really upset.

And I am very concerned that this roll-out, the information that is being given to consumers is inadequate and that there are going

to be a lot of people who come home on the day after this conversion takes place and they are wondering what in the heck happened to their television because the information has been inadequate, and you are putting the burden on consumers who bought a device that worked, a television, and then saying, oh, well, you have to buy a new one. It is not an expense that families in my neighborhood want to pay right now with the price of gas through the roof and concern about jobs and housing and everything else. So I think it is about time that we got our act together, and I think it is about time that this committee started acting like a real committee of a real Congress because today we abdicated that responsibility. I yield.

Mr. MARKEY. The gentlelady's time has expired. The chair recognizes the gentlelady from California, Ms. Solis.

OPENING STATEMENT OF HON. HILDA L. SOLIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. SOLIS. Thank you, Mr. Chairman, for having this hearing, and Ranking Member Stearns, for this important oversight hearing on digital television transition. I do believe that this committee is doing the right thing by focusing in on this issue, and I would like to thank our chairman of the overall Energy and Commerce Committee, Mr. Dingell, for his strong support for the issues affecting communities that will be affected by the digital transition along the border. We have an enormous responsibility here and, quite frankly, one of the reasons why I introduced H.R. 5335 was to help provide a fix for many, hundreds of thousands of individuals who will be affected if we don't do something immediately as well. The legislation that I have introduced would create a process at the FCC for broadcasters within 50 miles of the border to apply to keep running an analog signal for a minimum of 5 years after the transition.

The Senate version of the bill, you may know, authored by Senator Kay Bailey Hutchinson, passed the full Senate unanimously in August. It does have bipartisan support. I want to urge my colleagues on this committee to support the legislation because I do think it is crucial and to the success of the DTV transition in the border region. And while I represent a community in southern California, I know what it means to live in those mixed communities where the predominant language is not English. We have to keep in mind what those viewers there are also being able to obtain in those border communities, many which have many economic, particularly right now with the hurricane that just left Galveston in Texas, the kind of information that they need at hand readily available whenever there are problems that crop up.

Hurricanes are one, earthquakes are another, but other disasters where people will be cut off from their main source of communication. This bill is important for many of the border communities. And I am happy to report that members of the Hispanic caucus have gone on record in full support of this legislation, as well as several of our national Hispanic organizations. And, Mr. Chairman, I would like to submit those letters for the record as well, if I could ask unanimous consent to have that provided for us.

Mr. MARKEY. The gentlelady's time has expired, and the chair recognizes the—I am sorry. Without objection, the unanimous consent request of the gentlelady from California is agreed to. We now turn and recognize the gentlelady from California, Ms. Capps.

OPENING STATEMENT OF HON. LOIS CAPPS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. CAPPS. Thank you, Mr. Chairman, and thank you for holding this very timely hearing. I appreciate your efforts to bring us up to date, and I appreciate our witnesses being here to talk to us about the state of affairs with DTV, particularly in light of the test that was done recently in Wilmington. I also want to thank our leader, the chairman of the full committee, for recognizing early on that this switch over presents an enormous challenge to our country that we can handle but we need to make sure we do it in the most effective way. This is also Hispanic Heritage Month, and in light of that I look forward to hearing within this setting about how we can better insure that our vulnerable border populations are not left behind.

We have a lot of ground to cover so I am going to just highlight the areas of most concern to me and my district. First, as my district, my congressional district, is 42 percent Latino, I am concerned by the latest GAO report, which states that households in predominantly Latino areas are less likely to redeem their coupons. It is my hope that broadcasters, retailers, and everyone refocus their education efforts to reflect this reality and to do something about it. Second, the results from Wilmington fall short of where we should be in terms of consumer understanding of converter boxes and lost signals. Once again, it is good to have this test to see what the challenges are. We have a few weeks left in which to redouble our efforts.

This needs to happen to educate consumers about how to use converter boxes and whether other equipment like antennas might be necessary. Lastly, the GAO reports that NTIA has no specific plans to address the expected spike in demand for coupons as the transition date nears. I think we should all expect that that is going to happen. I want to hear from NTIA how it would handle such a spike and what administrative costs might be associated with that. So again, thank you, Chairman Markey. To our witnesses, I look forward to hearing from you how we can use the remaining time before the switch-over to insure that this transition goes as smoothly as it should. And I yield back.

Mr. MARKEY. The gentlelady's time has expired. The chair recognizes the gentleman from Texas, Mr. Green.

OPENING STATEMENT OF HON. GENE GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. GREEN. Thank you, Mr. Chairman, and I apologize for being late. I want to thank you for calling this follow-up hearing, and I know we have had a number of hearings on it. And I have a district in Houston so we have a lot of problems going on, and I want to thank you again for holding this digital television transition. I look forward to hearing from our witnesses about the test in Wilmington, the first city to switch to digital, and other issues that

need to be addressed between now and next February. We have little time to address these issues until the beginning of the next Congress. This will be the last thorough discussion we have until next January, about 1 month out from the analog cut off.

Most importantly, today as my home town of Houston struggles to stabilize the situation and begin to rebuild, there is discussion of emergency communication after the digital transition. I would like to thank our local broadcasters for their work, local coverage to keep the viewers informed. I want to thank particularly Direct TV, who carried KHOU, Channel 11, Houston CBS affiliate nationwide on their satellite service so displaced evacuees could get the local coverage. What I am still concerned about is a issue I raised at the last DTV hearing on whether there were battery-operated digital television converter boxes available or even in production.

When I raised the issue the last time both the FCC and the NTIA acknowledged it was a problem. They are looking at how to resolve it. I hope to hear that progress has been made. The electricity outage that darkened the upper Texas Gulf Coast at the height of Hurricane Ike is the largest power outage in the State's history according to the Public Utility Commission. Nearly 2 million people are still without power in Houston and about 90 percent average in my own district. We don't have power now at my house or at either of our offices. If I didn't have my battery-operated TV, I wouldn't be able to get the news. I would have to depend on radio.

And after February 17, we will not have those battery-operated TVs that are analog so it is not only something we need to consider, it is an emergency, and I would hope the FCC and NTIA and the industry, if you are here, the retailers and the manufacturers, that is something that is needed. And if it takes a federal mandate, we will work on it. The test market in Wilmington was almost postponed out of concern that Hurricane Hanna was going to hit North Carolina just as full power stations in the Wilmington market prepared to shut off their analog signals and complete the transition. Tropical Storm Eduard, Tropical Storm Fay, Hurricane Gustav, Hurricane Hanna, and Hurricane Ike all made landfall during 2008 hurricane season. The west has earthquakes and forest fires. The Midwest has tornados. The Gulf and East Coast have hurricanes. Whatever disaster, we need to make certain information is available over the television and people are able to view the information, whether there is power running in their home or not.

And again, like I said, over 90 percent of my households in a blue collar, poor area of Houston in East Harris County do not have power. Now we also have the Petrol Chemical complex. We are trying to get it back up operating but without power you can't keep up with the information through your television. Again, I want to thank all the witnesses for being here today and look forward to the discussion of topics. I hope we can look at the need for emergency communication prior to, during and after a national disaster and how these communications affect our digital transition. Again, thank you, Mr. Chairman.

Mr. MARKEY. Thank you, Mr. Green, and all of our prayers and thoughts are with you, your family, all of the citizens of Houston, Galveston. I know you have family in Galveston, and the entire af-

fected area. It is just a complete tragedy down there. Again, it makes this hearing so much more important that you were able to come here today to remind us. The chair recognizes the gentleman from Illinois, Mr. Shimkus.

OPENING STATEMENT OF HON. JOHN SHIMKUS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. SHIMKUS. Thank you, Mr. Chairman. I was coming to attend the DTV hearing and I heard an energy debate broke out so I ran. No, not really. But it does highlight the frustration on this side of regular order and the fact that here we have a major energy bill to the floor. We are the Energy and Commerce Committee, the most powerful committee in the House of Representatives, having a major debate on energy, and it doesn't go through the subcommittee, doesn't come through the full committee. And when we passed the 2005 energy bill, it went through five committees. We know because we spent till 4:00 in the morning marking it up just in this committee alone.

And of course because of the time of year it is and the closeness to the proximity of elections this things gets thrown on the floor, and if there are people who are frustrated and disappointed, I think everybody can understand why and hopefully in the next cycle when we get to a new Congress, we will get back to regular order. I think that is all the point being. We do more harm to this institution when we don't use regular order and we don't do regular process because then we have people here to talk about DTV and a fight on energy breaks out, and we are better than that.

And this committee, as you know, and my colleagues on the other side know, this committee is much, much better than that. To the DTV, I just tell you I was pleased with the test. I took the August break to go to my constituents to talk about coupons, to talk about the digital receivers, to help people learn to hook them up. I have constituents in rural areas that, I know the direct satellite folks aren't going to want to hear this, but they have decided to disconnect their direct satellite to just receive the great signal free over-the-air digital TV, more channels, and that is what we would hope through a great transition and also the other benefits of the first line responders and using new technologies.

So I want to thank the folks, and I want to thank Chairman Martin because we did have a phone call and a discussion of the Wilmington issue that was helpful, and I am pretty excited. I would just encourage members to really get proactive just like on the Medicare D debate, whether you were for it or against it, if you lean forward in the fox hole and you really took the offensive action to help educate your constituents, I think the problems that will occur, and there will be problems, but if you take pre-emptive action you can limit that and that is the best thing for all our constituents. Thank you, Mr. Chairman. I yield back.

Mr. MARKEY. The gentleman's time has expired. All time for opening statements by the members of the subcommittee has expired. We will now turn to our panel. And we will begin with Kevin Martin, who is the Chairman of the Federal Communications Commission, a post he has held since 2005. The Federal Communications Commission is responsible for DTV consumer education, and

he is here today to talk about Wilmington, North Carolina, and its DTV test market. We welcome you, sir. Whenever you are ready, please begin.

STATEMENT OF KEVIN J. MARTIN, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

Mr. MARTIN. Thank you and good morning, Chairman Markey and Ranking Member Stearns, and all the members of the committee. Thank you for inviting me to be here today and to continue to update you on the status of the digital transition. With the national transition about 5 months away much remains to be done. At the same time, since I last appeared before you, we have continued to make progress educating viewers and helping them prepare for the upcoming transition. In particular, in addition to our ongoing consumer education and outreach efforts, we have gained real-world experience with the challenges facing viewers and broadcasters as we approach February, 2009.

Last week, on September 8, Wilmington, North Carolina became the first market in the country to transition from analog to digital television. Before I go into the details of the Wilmington transition, I would like to start by crediting Commissioner Copps of the FCC for challenging me and the industry to find a community that would be willing to help the rest of the country lead this transition. Commissioner Copps deserves the credit for urging the Commission to engage in a real-world test that would help ready the broadcasters, viewers and all of us at the Commission for this upcoming transition.

For its part, the Commission worked hard to educate, inform, and prepare those in Wilmington for the transition, but it was our partnership, particularly those at the grassroots level, that was critical in enabling us to contact at risk groups that we were focused on reaching, senior citizens, non-English speakers and minorities, people with disabilities, low income consumers, and those living in rural or tribal areas. The Wilmington switchover was critically important because it enabled us to learn what was effective in informing and preparing viewers and broadcasters for the transition, and it helped us identify what outreach and technical challenges still need to be addressed in the months ahead.

While we hope that the transition in Wilmington went relatively smoothly, the measure of success in Wilmington is not what occurred last week. The measures of success in Wilmington is what happens next February and whether we are able to learn from this experience and apply those lessons as we move this effort across the country. Based on our current information, it appears that the majority of Wilmington viewers were aware of and prepared for the transition. Importantly, the consumer education campaign that was conducted appears to have been effective. Consumer calls received by the Commission at its call center indicated that the majority of the 400,000 television viewers in the Wilmington area were aware of the transition and prepared for it.

During the first day of the transition, the Commission's help line received almost 800 calls representing less than half of 1 percent of the area homes. Notably, the volume of calls we received decreased by almost 50 percent in the 2 days after the switchover and

continues to decrease with each passing day. In total we received about 1,800 calls regarding the Wilmington test, representing about 1 percent of the Wilmington households. For the entire first week, only 91 callers said they were unaware of the transition and 163 callers were aware but did not take any action to prepare for it. Several challenges, however, do also remain. Though consumer education efforts appear to have been effective, our focus now turns to resolving the technical challenges. Some of these challenges are easily resolved and others are not.

With respect to the callers who are experiencing difficulty, I have directed our engineers and outreach staff to work directly with those viewers and assist them in resolving their individual questions and needs. For example, as of last Friday there were 329 calls to our help line about converter boxes. Thanks to the dedicated Commission staff, many of these difficulties have been easily resolved. Specifically, the Commission staff were able to resolve 262 or almost 80 percent of those calls as they came in. The solutions were often relatively simple, consumers just needed to either rescan for channels on their television set or their converter box or properly hook up the converter box. On a going forward basis, consumer education efforts are going to need to instruct consumers about how to effectively hook up their box and the need to re-scan.

Unfortunately, some viewers are experiencing problems that will not be as easy to resolve. For example, there are a number of consumers in the Wilmington area that have lost access to the Wilmington NBC affiliate. Prior to the digital switch, the Wilmington NBC affiliate signal was available to viewers outside that television market as far south as Myrtle Beach, South Carolina and as far north as Raleigh, North Carolina. The Wilmington NBC affiliate's new coverage area, however, no longer includes these out-of-market communities. Some of these viewers will be able to watch their local NBC affiliate in Myrtle Beach and Raleigh. There are some, however, who will not have access to any NBC affiliate.

Our goal is to ensure that all viewers in the Wilmington area and the country have access to the same television signals they did prior to the television transition. The Commission is currently exploring what steps can be taken to address this problem in Wilmington and to minimize this burden on viewers as we move throughout the rest of the country. Finally, relatively few consumers lost their broadcast channels as a result of the digital cliff effect. I have previously testified that our engineers estimate that about 5 percent of over-the-air viewers may need a new antenna to receive digital television signals due to the digital cliff effect. Only about 15 percent of viewers around the country receive their signals over the air so we estimate that this will impact less than 1 percent of all viewers and that they would need a new antenna. The data from Wilmington suggests a similar outcome.

Of the 960 calls we received about reception and technical problems, as I said, 553 related to the NBC affiliate. The reception problems for Channel 6 were caused by a significant reduction in the service contour, not by the digital cliff effect. If we assumed that all the remaining calls were caused by the cliff effect, this still represents less than approximately .25 percent of all viewers in the Wilmington area. Moreover, many of the calls we received, we were

able to resolve with relatively simple technical advice about 136 of them. In short, for stations whose DTV coverage was designed to replicate their analog coverage, complaints about the cliff effect were well below our estimate of 1 percent.

The early switch in Wilmington has been instrumental in helping the Commission identify, understand, and hopefully prevent some future problems with the rest of the nation as we move to the transition of February of next year, but the measure of success in Wilmington is not what happened on September 8, September 15, or October 15. Rather, it is how we are going to take those lessons that we learned and apply that knowledge throughout the rest of the country. I would ask the rest of my statement be entered in the record, and I look forward to answering your questions.

[The prepared statement of Mr. Martin follows:]

Written Statement
Of

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission

Before the
Committee on Energy and Commerce,
Subcommittee on Telecommunications and the Internet
U.S. House of Representatives

September 16, 2008

Good morning Chairman Dingell, Chairman Markey, Ranking Member Barton, Ranking Member Stearns, and Members of the Committee. Thank you for inviting me here today to continue updating you on the status of the digital transition.

The Commission has been hard at work on a number of fronts to minimize the potential burden for consumers and to maximize their ability to benefit from the upcoming digital transition. The conversion to digital television promises movie quality picture and sound as well as potentially new programming choices. It also will allow us to significantly improve public safety communications and usher in a new era of advanced wireless services.

With the national transition about five months away, much remains to be done. At the same time, since I last appeared before you, we have continued to make progress educating viewers and helping them prepare for the upcoming transition. In particular, in addition to our ongoing consumer education and outreach efforts, we have recently gained real-world experience with the challenges facing viewers and broadcasters as we approach February 2008.

Last week, on September 8th, Wilmington, North Carolina became the first market in the country to transition from analog to digital television. At noon on that day, five local Wilmington stations, turned off their analog signals and began broadcasting only digital to the viewers in the five counties that comprise the Wilmington television market. This was an historic day and I am pleased that the local broadcasters and the entire community embraced the challenge of helping the country prepare for the switch to digital.

Before I go into the details of the Wilmington transition, I would like to start by crediting Commissioner Copps for challenging me and the industry to find a community that would be willing to help the rest of the country lead this transition. Commissioner Copps deserves credit for urging the Commission to engage in real-world test that would help ready the broadcasters, viewers and us for the upcoming transition.

For its part, the Commission worked to educate, inform, and prepare viewers for the transition. We had staff on the ground in every county, we attended over 400 outreach events, including Town Hall meetings, and distributed over 85,000 publications. But it was our partnerships, particularly those at the grassroots level, that were critical in enabling us to contact the "at risk"

groups that we are focused on reaching – senior citizens, non-English speakers and minorities, people with disabilities, low income consumers, and those living in rural or tribal areas. One of the invaluable lessons we have learned from Wilmington is that DTV outreach success depends on the commitment of the local community, including local industry, governmental and nongovernmental organizations. Community stakeholders must take a leadership role for such large-scale messaging to take effect, and tapping into existing grassroots networks is critical.

The Wilmington switchover was critically important because it enabled us to learn what was effective in informing and preparing viewers and broadcasters for the transition. It helped us identify what outreach and technical challenges still need to be addressed in the months ahead. While we hope that the transition in Wilmington went relatively smoothly, the measure of success in Wilmington is not what occurred last week. The measure of success in Wilmington is what happens next February and whether we are able to learn from this experience and apply those lessons as we move this effort across the country.

Majority of Wilmington Viewers Aware and Prepared for Transition

Based on our current information, it appears that the majority of Wilmington viewers were aware of and prepared for the transition. Importantly, the consumer education campaign that was conducted appears to have been effective. Prior to the transition on September 8th, NAB released a survey indicating that 97% of Wilmington residents were aware of the switch to digital. Consumer calls received by the Commission at its call center also indicated that the vast majority of the 400,000 television viewers in the Wilmington-area were aware of the transition and prepared for it.

During the first day of the transition, the Commission's toll-free helpline received 797 calls representing less than one-half of one percent of area homes. Notably, the volume of calls we received decreased by almost 50 percent in the two days after the switchover and continues to decrease as each day passes. In total we received 1,828 calls regarding the Wilmington test, representing 1 percent of Wilmington households. See Appendix D. And for the entire first week only 91 callers said they were unaware of the transition and 163 callers were aware but did not act to prepare for it. See Appendix D. It appears that the residents of Wilmington were generally aware of the early transition and generally prepared for it.

Challenges that Remain

Though our consumer education efforts appear to have been effective, our focus now turns to resolving technical challenges. Some of these challenges are easily resolved and others are not. With respect to the callers who are experiencing difficulty, I have directed our engineers and outreach staff to work directly with these viewers and assist them in resolving their individual questions and needs.

For example, as of last Friday, 329 of calls to our helpline were about converter box problems. Thanks to dedicated Commission staff, many of these difficulties have been resolved. Specifically, Commission staff was able to resolve 262 of the 329 calls (80 percent) that came in about converter box issues. See Appendix D. The solutions were often relatively simple - consumers just needed to re-scan the channels on their television set or properly hook up their converter box. Gaining a better understanding of the challenges being faced by consumers after a real switchover, will enable us to be better focus our messaging and consumer education tools. Consumer education efforts need to instruct consumers about how to effectively hook-up their box and the need to re-scan.

Unfortunately, some viewers are experiencing problems that will not be as easy for us to resolve. For example, there are a number of consumers in the Wilmington-area that have lost access to the Wilmington NBC affiliate, WECT (553 calls representing .3 percent of Wilmington homes). Prior to the digital switch, the Wilmington NBC affiliate signal was available to viewers outside the television market as far south as Myrtle Beach, SC and as far north as Raleigh, NC. See Appendix B. The Wilmington NBC affiliate's new coverage area, however, no longer includes these out of market communities. Some of these viewers will be able to watch their local NBC affiliate in Myrtle Beach and Raleigh. There may be some, however, that will not have access to any NBC affiliate. See Appendix C.

Our goal is to ensure that all viewers in the Wilmington-area and the country have access to the same television signals that they did prior to the transition. The Commission is currently exploring what steps can be taken to address this problem in Wilmington and minimize the burden on viewers throughout the country.

Finally, relatively few consumers lost their broadcast channels as a result of the "cliff effect." Digital TV experiences what is often referred to as the "digital cliff effect." Analog TV pictures degrade gradually. As the signals get weaker the picture becomes progressively poorer or becomes "snowy." Yet, viewers may still find these pictures watchable. In contrast, digital TV pictures remain crystal clear even with relatively weak signal levels. However, once the signal falls below a certain level, the picture breaks up or disappears. In such situations, viewers may lose their picture altogether.

I had previously testified that our engineers estimated that about 5 % of over-the-air viewers may need a new antenna to receive digital television due to the digital cliff effect. Only about 15 percent of viewers receive their signals over the air, so we estimated that less than 1 percent (5 percent of 15 percent) of all viewers would new a new antenna. The data from Wilmington suggests a similar estimate.

Of the 960 calls we received about reception and technical problems, 553 involved reception of the NBC affiliate, WECT, on channel 6. The reception problems for channel 6 were caused by a significant reduction in the service contour for WECT channel 6, not the digital cliff effect. Even if we assume that all of the remaining 397 calls were caused by the "cliff effect," these represent less than approximately 0.25 percent of all viewers in the Wilmington market. See Appendix D. Moreover, of the calls we received regarding reception and technical issues, we were able to resolve 136 of them. In short, for stations whose DTV coverage was designed replicate their analog coverage, complaints about the cliff effect were well below our estimate of one percent.

The early switch to digital in Wilmington has been instrumental in helping the Commission identify, understand, and hopefully prevent some future problems when the rest of nation transitions in February 2009. The measure of success in Wilmington is not what happened on September 8th, September 15th or October 15th. Rather, it is how we are going to take what we learned in Wilmington and apply that knowledge to the rest of the country.

We have already learned some very important lessons. For example, the Commission learned from the Wilmington test the importance of emergency preparedness. At the time we began outreach in Wilmington four months ago there were no battery operated converter boxes available. So the broadcasters and some folks down in Wilmington were able to work with

one converter box manufacturer, Winegard, who recently introduced a DTV converter box battery pack specifically designed to allow its converter boxes to work in power outages.

We will continue to study the Wilmington experience so that we can best minimize the burdens placed on consumers as the national transition approaches.

In addition to our efforts in the Wilmington test market, the Commission has been busy in other areas. Our activities are described in great detail in the monthly digital television status reports that we send to Congress. I have attached this comprehensive report to my testimony. Appendix A. Nevertheless, I would like to highlight a few things we have been working on.

Broadcasters' Transition to Digital. Progress on converting broadcast facilities to all digital is continuing. Based on the status reports that we have required broadcasters to make, over 90 percent of active full power television stations are either fully operational with digital service or are on track to have their full digital service operational by February 17, 2009. Slightly over five percent of the stations indicate that they will take advantage of the flexibility offered by the Commission and serve at least 85 percent of their service population on February 17, 2009, with final digital operations beginning sometime thereafter. The Commission gave such flexibility if a broadcaster faced unique technical challenges such as weather-related issues, or coordination with other stations.

Enforcement Activities. The Commission's DTV-related enforcement efforts have focused on protecting consumers through enforcement of our rules as this transition takes place. As of September 12, 2008, Commission personnel have inspected 4,057 stores and 72 websites to assess their compliance with the Commission's rules requiring labels on analog-only television receivers. We have issued 369 citations for failing to comply with our labeling rules. Since October 2007, we have released NALs or consent decrees against 22 retailers, totaling more than $4.74 million.

We also have been visiting retailers to assess their employee training in the DTV transition and the NTIA converter box coupon program. As of September 12, 2008, Commission field agents have visited 1,452 stores and

conducted 1,403 interviews of store managers in 47 states and in Puerto Rico.

In addition, we are actively enforcing the DTV consumer education requirements that the Commission adopted last spring. To this end, we have recently issued a Bureau-level NAL in the amount of $51,000 against one company for failing to notify its customers of the transition as required under our rules. We have also circulated a Commission-level order proposing $12.3 million of fines collectively against eight companies for notification failures. We are in the midst of reviewing additional information submitted by broadcasters, cable operators, and telecommunications carriers, and expect to take additional enforcement actions in the near future.

Consumer Education and Outreach. Word of the digital transition is spreading quickly throughout the country. I would like to highlight a few of our education and outreach activities.

Nationwide 81-City Tour. Last month, I announced a nationwide initiative to increase awareness about the upcoming transition to digital television. As part of our efforts to prepare consumers for the transition, the Commission identified television markets in which the largest number of viewers will have to take action to be prepared for the transition five months from now. Specifically, we identified 81 target television markets for specific DTV outreach, including all those markets in which more than 100,000 households or at least 15% of the households rely solely on over-the-air signals for television.

Within these markets, we are aiming to educate those groups most vulnerable to the transition such as senior citizens and non-English speakers. My fellow Commissioners and I, as well as other Commission staff, will fan out to these markets to raise awareness and educate consumers in the days leading up to the digital television transition on February 17, 2009.

At each stop, there will be a public event, such as a town hall meeting, workshop, or roundtable with an FCC Commissioner to highlight the digital transition, and be available to local press. In coordination with these visits, the Commission will work with local broadcasters and radio stations to increase the broadcasts of Radio and TV DTV PSAs. The Commission has

visited several cities so far including, Anchorage, Fairbanks, and Tulsa and plans many more trips in the upcoming weeks.

As part of this nationwide tour, the Commission is also coordinating with the broadcasters to explore whether at the same time these stations may participate in a temporary turn off of their analog signals. During these "so-called soft tests" analog customers would see a message on their screens informing them of the transition and how to become prepared.

DTV Awareness Sessions. The Commission has conducted over 1829 DTV Awareness sessions, attended more than 482 conferences and events, established 514 partnerships, and made over 7854 visits to various organizations around the country to disseminate DTV information.

Speakers Bureau. Last month, I announced that the Commission has launched a Speakers Bureau for groups throughout the country to request speakers to discuss the upcoming digital transition. The Speakers Bureau is the latest addition to the Commission's DTV outreach effort. The Commission will provide speakers, without cost, to any group requesting one. To date, we have received 51 requests for speakers. The requests are being handled by staff traveling for conferences and events, as part of the outreach for our town hall meetings, and by our field agents.

Grassroots Bid. The Commission just announced that it is seeking contracts from grass roots organizations and community-based organizations to assist consumers, particularly those consumers that are home-bound or that have limited mobility, with the procurement and installation of digital TV converter boxes and related equipment. These efforts will complement our ongoing work of educating consumers about the migration from analog to digital broadcasting.

U.S. Postal Service Partnership. We have distributed more than 9,300 posters nationwide. We are displaying DTV education posters in all 34,000 post offices across the country. These posters include a dinosaur saying "Don't Let You TV Become Extinct." We are working with the U.S. Postal Service to install updated posters beginning November 1, 2008 running through the end of the transition period. The new posters are targeted to instill a greater sense of urgency to consumers and will use the slogan "On February 17, 2009 your TV is changing. Are you ready?".

In conclusion, the Commission is devoting significant resources to facilitating a smooth transition. Nearly every Bureau and Office at the Commission has been involved in this effort including our field offices throughout the country.

We intend to take whatever actions are necessary to minimize the potential burden the digital transition could impose on consumers and maximize their ability to benefit from it.

The next five months will undoubtedly be challenging. Nevertheless, it is my hope that through the combined efforts of government, industry, advocacy, and grassroots groups, American consumers will reap the rewards that the digital transition has to offer.

Digital Television Status Update of the Federal Communications Commission

September 2008

INTRODUCTION

This fifth DTV monthly report highlights the Federal Communication Commission's activities as of August 31, 2008. The full reports and lists of stations are available upon request.

The Commission has three primary areas of focus: (1) developing policies and technical rules to ensure a smooth transition for broadcast stations and minimize the burden placed on consumers; (2) enforcement of DTV-related Commission rules to protect consumers; and (3) coordinating and conducting consumer education outreach on the DTV transition. The Commission is devoting significant resources in each of these areas to facilitate a smooth transition. Those efforts are summarized below and included in the various attachments.

UPDATE ON FULL-POWER BROADCASTERS' TRANSITION TO DIGITAL

With regard to our efforts to prepare full-power broadcasters for the end of the transition, the Commission has in place the necessary rules to allow broadcasters to construct digital facilities. Additionally, each station is required to file Form 387 indicating the current status of construction of its post-transition facility and to update its Form 387 filing to convey changes in status as warranted. It is important to note that application and build out status for stations changes daily. The following chart provides a summary of the current status of full-power television broadcast stations at the final five months of the DTV transition. A full list of stations is available upon request.

In the month of August, 10 stations completed construction of their post-transition digital facilities. Thus, as noted in line 2 of the chart below, 1,012 stations indicated that they were completely finished with their DTV transition. In other words, those stations are on their final post-transition channel, have completed construction, and are operating their authorized post-transition digital facility.

On August 18, 2008, the Media Bureau released a report based on Form 387 filings. In response to the release of the report, the Bureau received updated information from 75 stations regarding their status. The updated filings are reflected in the chart below. We note that, based on recently filed Form 387s, approximately 5 percent (97 stations) will take advantage of the flexibility offered by the Commission in the *Third DTV Periodic Review Report and Order* and will be serving at least 85 percent of their service population on February 17, 2009, with final operations beginning sometime thereafter (See line 4 below). Accordingly, line 3 below was adjusted to account for these stations. One station, a satellite of another station, forecasts that it will not be able to complete construction of its digital facility until a few days after February 17, 2009 and will be dark for this brief time (See line 5 below). Finally, 3 stations have not submitted their Form 387s and have not officially reported when they will be ready for the DTV transition, but each station has represented to video division staff orally that it is on track to complete digital construction by February 17, 2009 (See line 6 below). In addition, we note that 10 stations were identified as new permittees without current analog facilities and are not required to construct before 2/17/2009 (See line 7 below). Finally, the total number of full power stations has been adjusted upward to 1,813 (See line 1), as there were two additional stations that have recently been granted applications for new digital facilities, but do not have post-transition construction permits (See line 8).

FULL POWER STATION SUMMARY			
		July	August
1.	Total # of full power stations with DTV channels:	1811	1813
2.	Total # of stations with completed post-transition digital facilities:	1002	1012
3.	Total # of stations on-track to complete construction by 2/17/09:	736	685
4.	Total # of stations expecting to serve at least 85% of their digital population by 2/17/09 (with full construction completed after 2/17/09):	56	97
5.	Total # of stations expecting to complete construction by approximately 2/21/09:	1	1
6.	Total # of stations not filing Form 387:	3	3
7.	Total # of new DTV stations with construction deadlines after 2/17/09 (4/3/2009, 4/10/2009, 6/28/2009, 8/11/2009, 8/24/2009, 9/20/2009, 12/6/2009, 1/10/2010, and 7/20/2010):	10	10
8.	Total # of recently granted applications for new digital stations:	3	5

UPDATE ON TECHNICAL AND POLICY ACTIONS

The Media Bureau continues to process maximization applications and requests for new channels. As of August 31, 2008, 253 maximization applications have been granted, and 34 Notices of Proposed Rulemaking for new channels have been released, with 4 dismissed. Additionally, as reported by the Media Bureau in August, 106 stations indicate they plan to reduce analog service and 88 stations plan to terminate analog transmissions prior to 2/17/2009. As of August 31, 2008, 49 stations have been granted permission to reduce analog service with 28 having already reduced analog service. Additionally, as of August 31, 2008, 18 stations have been granted permission to turn off their analog stations with 8 stations already shutting down their analog operations.

Below is a summary of the other technical and policy actions taken with regard to the DTV transition in August 2008. A complete Policy and Technical Actions document is available upon request.

Policy and Technical Actions
August 2008 Updates

- **Applications for DTV Facilities** – In August 2008, the Video Division of the Media Bureau processed 141 modification and license applications for DTV facilities. As of August 31, 2008, the total number of modification and license applications processed by the Video Division since 1997 is 5471.
- **Applications for Construction Permits** – In August 2008, the Commission received approximately 6 construction permit applications from stations implementing their post-transition facilities. As of August 31, 2008, the total number of applications to implement post-transition facilities received is 706.
- **DTV Build Out** – In August 2008, the Media Bureau released a report on the status of the digital build out by full power television stations. The report showed that over 96 percent of active full power television stations are either fully operational with digital service or are on track to have their full digital service operational by February 17, 2009.
- **NTIA Certified Converter Boxes** – In August 2008, NTIA announced certification of 20 converter boxes including 20 that are capable of analog pass though. In total, as of August 31, 2008, NTIA has certified 149 converter boxes including 75 that are capable of analog pass through.

UPDATE ON LOW-POWER BROADCASTERS' TRANSITION TO DIGITAL

The Commission continues to process digital companion channel and digital flash cut applications for low power stations. As of August 31, 2008, 236 low power stations are operating in digital, with 5 new stations licensed in July. The chart below summarizes the current information related to Class A, low power, and TV translator stations. Additional information by station type and a full list of low power stations is available upon request.

LOW POWER STATION SUMMARY As of 8.31.2008		
	July	August
Total # of Class A, LPTV & TV Translator Stations:	7,088	7,088
Total # of licensed digital Low Power stations (both "Digital Companion Channel" and "Digital Flash Cut" stations):	231	236
Total # of stations with granted digital applications:	1,860	1,900
Total # of stations with accepted/pending digital applications:	186	199
Total # of stations with no digital application filed or application dismissed:	4,811	4,753

INDUSTRY OUTREACH EFFORTS

Broadcast stations must electronically report their consumer education efforts to the Commission on a quarterly basis by filing Form 388 electronically in a database that is publicly available. These reports must also be placed in the broadcaster's public file and on their website. Broadcasters will file the next Form 388 on October 10, 2008, reporting data for the previous quarter. A summary of that data will be provided in November, when we report data from October 2008.

ENFORCEMENT

The Commission's DTV-related enforcement efforts have focused on protecting consumers from unknowingly buying televisions that will not receive full-power broadcast stations following the transition. There are three specific areas of enforcement: (1) the labeling of analog-only televisions; (2) the prohibition on importing and shipment of analog-only televisions; (3) the V-Chip requirement for digital televisions. In addition, we have begun conducting informational interviews of store managers to assess the employee training and consumer education efforts of retailers participating in the NTIA converter box coupon program.

A. Labeling Enforcement

Labeling Inspections		
	August	Total to Date
Retail Stores	129	3,978
Websites	33	72
Citations	3	369

Note: Due to the fact that generally retailers are not FCC licensees, citations must be issued prior to proposing monetary penalty via a Notice of Apparent Liability (NAL).

B. DTV Tuner Mandate

The Enforcement Bureau continues to ensure that no manufacturers import and ship analog-only television receivers and equipment. In August, two new NALs for apparent violation were issued to

Hannspree North America, Inc., and Invision Industries, Inc., for a total of $336,450. These NALs bring the total to date to five. Previous NALs were issued to Precor, Syntax Brillian Corp., and Regent USA, Inc. Precor and Regent have paid $421,550 combined, but Syntax Brillian has declared Chapter 11 bankruptcy. The Department of Justice must now file a proof of claim at the appropriate time in the company's bankruptcy proceeding to establish a claim for collection purposes.

C. V-Chip Requirements

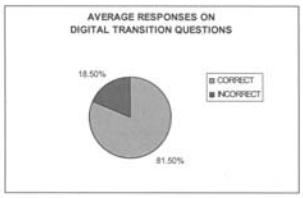
The Commission's rules require digital television manufacturers to include the V-Chip in their equipment and to ensure that their devices can adjust to changes in the content advisory system. We began investigating allegations that some manufacturers were not complying with our rules. We have released three NALs and eight consent decrees with manufacturers to resolve our investigations. The voluntary contributions from these orders totaled over $3.7 million and payment has already been made to the U.S. Treasury. In addition, the manufacturers agreeing to consent decrees have undertaken significant compliance measures to remedy their past violations and prevent future ones.

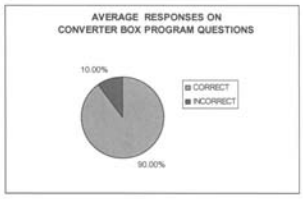
D. Retail Interviews

As part of our follow-up on the requirements of the recent *DTV Consumer Education Order*, field agents across the country have been interviewing store managers at retail establishments offering digital-to-analog converter boxes. Below is a summary of those efforts.

Retail Interviews		
	August	Total to Date
Visits	111	1,446
Interviews	106	1,397

To date, as reflected graphically below, the Bureau has found that the majority of store managers interviewed are well-informed of the digital transition and the NTIA converter box coupon program. Some managers, however, appear to need additional training in certain areas, e.g., the need of some customers for new antenna equipment, the fact that many low-power television stations will not convert to digital broadcasting on February 17, 2009. Where such training issues arise, field agents are providing information tip sheets and conducting supplemental training sessions.





The Commission also has reviewed 35 retailer websites and contacted ten retailers selling converter boxes by telephone to assess whether they are providing accurate information to the public. We also are conducting compliance reviews of telecommunications carriers, manufacturers, and cable and satellite companies to verify that they have met our consumer education requirements. In addition, we are reviewing hundreds of broadcaster filings to determine whether they have complied with the DTV outreach requirements in the *DTV Consumer Education Order*.

Swift enforcement of all our DTV-related rules is critical to protecting consumers and reducing potential confusion. Our activities in this area will continue to be a priority. Please see **Attachment A** for a list of enforcement actions and a summary of our retailer interview responses through August 2008.

NATIONAL CONSUMER EDUCATION AND OUTREACH

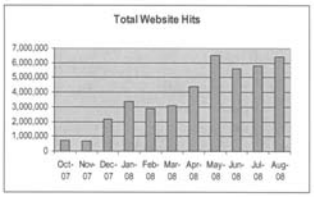
The Commission is actively and directly promoting consumer awareness through our own education and outreach efforts. Our efforts emphasize outreach to over-the-air consumers and other "hard to reach" populations, including senior citizens; non-English speaking and minority communities; people with disabilities; low-income individuals; and people living in rural and tribal areas. Commission staff has been working to form partnerships and commitments from a wide variety of sources – including other Federal Agencies, as well as Tribal, State and Local governments. Below is a summary of outreach efforts of the Commission on a national level for the month of August. A complete report of national outreach efforts is available upon request.

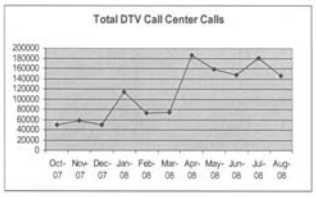
A. Information Distribution

A key part of the Commission's education and outreach efforts has been the development and distribution of consumer literature. These tools are a cost-effective means to provide information about the transition. In August, over 94,500 pages of DTV-related publications and posters were distributed. Additionally, as part of an agreement with the U.S. Postal Service, thousands of DTV transition posters were distributed to the US Postal Service and are being displayed for the public at Post Offices nationwide. The chart below summarizes the Commission's distribution efforts.

Distribution of Materials and Information		
	August	Total to Date
Publications Distributed (Pages)	94,552	Over 5.6 million
Posters Distributed	25	41,251
Website Hits	6,397,784	35,298,312
Call Center Calls	146,107	1,188,873

Further, the number of website rose again in August, reflecting an increasing demand for Internet access to information on the DTV transition. Total call volume to the FCC in August 2008 was 146,107, which is a 336% increase since December 2007. The graphs below illustrate the call center calls and website hits since October 2007.





In addition, our most widely distributed DTV one-pager is available in 20 languages in addition to English, including: Spanish, Chinese, French, Korean, Russian, Tagalog, Vietnamese, Hmong, Japanese, Arabic, Cambodian, Navajo, Somali, Amharic, Yupik, Portuguese, Laotian, Creole, Kurdish, and Polish, as well as Braille and audio formats. The public can obtain copies of our various DTV publications, as

well as access other information resources, by visiting our www.DTV.gov web page or by calling our Consumer Center toll-free at 1-888-CALL FCC.

B. Media Outreach

Billboards: Ketchum rolled out highway billboards on outdoor advertising space in five additional markets in August, and has now made agreements for donated space in a total of 55 markets. The new billboards went up in Duluth, MN, Springfield, MO, Yuma (El Centro), AZ, Kansas City, MO, and Dayton, OH.

Public Service Announcements: Ketchum has produced 18 English and Spanish radio public service announcements, of varying lengths, featuring FCC Commissioners. Ketchum distributed the PSAs to all full-power radio stations nationwide and the PSAs are available on DTV.gov as broadcast-quality downloads. Based on preliminary data, Ketchum indicates that, as of August 31, 2008, a total of 180 radio stations aired the PSA, resulting in over 36,000,000 audience impressions. This preliminary data translates into an estimated greater than 6% airing rate nationwide – or over 155,000,000 audience impressions nationwide. Ketchum has produced 12 English and Spanish television PSAs, of varying lengths, also featuring FCC Commissioners. They are being distributed to broadcasters and public access cable programmers nationwide. Ketchum has also produced a longer-form educational video. The television PSAs and educational video are viewable on www.DTV.gov and broadcast-quality versions are available, upon request, from the Commission.

C. Participation in Events and Conferences and Utilization of FCC Field Offices

Cumulative National Outreach Summary		
	August	Total to Date
Visits	632	7,732
Awareness Sessions	163	1,765
Conferences, Events, & Meetings	113	482
Media Interviews	15	101
Partnerships	82	516

As a subset of the numbers above of, in August, FCC field agents have visited 274 senior centers and 327 community centers, which frequently include large numbers of seniors, and gave 95 presentations. Thus far, Field Agents have visited 5,082 senior centers and 2,704 community centers and have given 1,221 presentations.

D. Coordination with Federal, State, Tribal and Local entities and Community Stakeholders

The Commission's ongoing collaboration with public and private sector agencies and organizations continues to produce positive results. Eighty-two DTV outreach commitments were obtained as a result of partnership activities in August 2008. A list of these commitments is available upon request.

STATE-BY-STATE CONSUMER EDUCATION AND OUTREACH

The Commission continues its active outreach on the DTV Transition with a focus on over-the-air households with a particular emphasis on the hard to reach constituencies, including senior citizens, non-English speaking and minority communities; people with disabilities; low-income individuals; and people living in rural and tribal areas.

On August 18, 2008, Chairman Kevin Martin announced a new initiative to increase awareness about the upcoming transition to digital television in target television markets, including all those markets in which more than 100,000 households (or at least 15% of the households) rely solely on over-the-air signals for television. The five FCC Commissioners and other Commission staff will fan out to these and other markets to raise awareness and educate consumers in the days leading up to the digital television transition on February 17, 2009. At each stop, there will be a public event, such as a town hall meeting, workshop, or roundtable with an FCC Commissioner, to highlight the digital transition. In coordination with these visits, the FCC will work with local broadcasters and radio stations to increase the broadcasts of Radio and TV DTV Public Service Announcements. Particular emphasis is being placed on those groups that are most vulnerable in the transition: Seniors, People Living in Tribal and Rural Areas, People with Disabilities, Individuals with Low-Incomes, Minorities and Non-English Speakers.

Additionally, the FCC launched a "Speakers Bureau" to provide groups and organizations throughout the country a convenient way to request speakers to discuss the upcoming transition to Digital Television (DTV) at their meetings and events. The Speakers Bureau is the latest addition to the FCC's DTV outreach effort. The Commission will provide speakers, without cost, to any group requesting one. To date, we have received over 40 requests for speakers. The requests are being handled by staff traveling for conferences and events, as part of the outreach for our town hall meetings, and by our field agents.

Taking all of these new initiatives and the existing outreach effort into account, for September and October, there are 90 Awareness Sessions planned, with FCC staff attending 30 Conferences, Events or Meetings. Additionally, FCC Field Offices have 145 presentations scheduled in the days ahead. Please see **Attachment B** for detailed information on the public education efforts of the Commission on a state-by-state basis.

THE EARLY TRANSITION IN WILMINGTON, NORTH CAROLINA

The stations in Wilmington, NC transitioned to digital on September 8, 2008. Over the last month, Commission staff continued to focus on at risk constituencies and key messaging in Wilmington. Additional events during this time period included presentations at rotary clubs, pantries, meals on wheels facilities, fire departments and an exhibit at a Wilmington Sharks game. The Commission's outreach efforts also focused on continuing efforts to help at risk constituencies order and install the digital to analog converter box. Outreach highlights include numerous converter box coupon sign up events at libraries, churches and social services agencies. The FCC sponsored a town hall event focused on educating consumers about closed captioning in the digital television era. Also during August, broadcasters conducted two "soft tests" to assess consumer awareness.

Attachment C provides an overview and analysis of the consumer calls received through the first five days of the transition. Additional information on the Wilmington transition will be provided in next month's report.

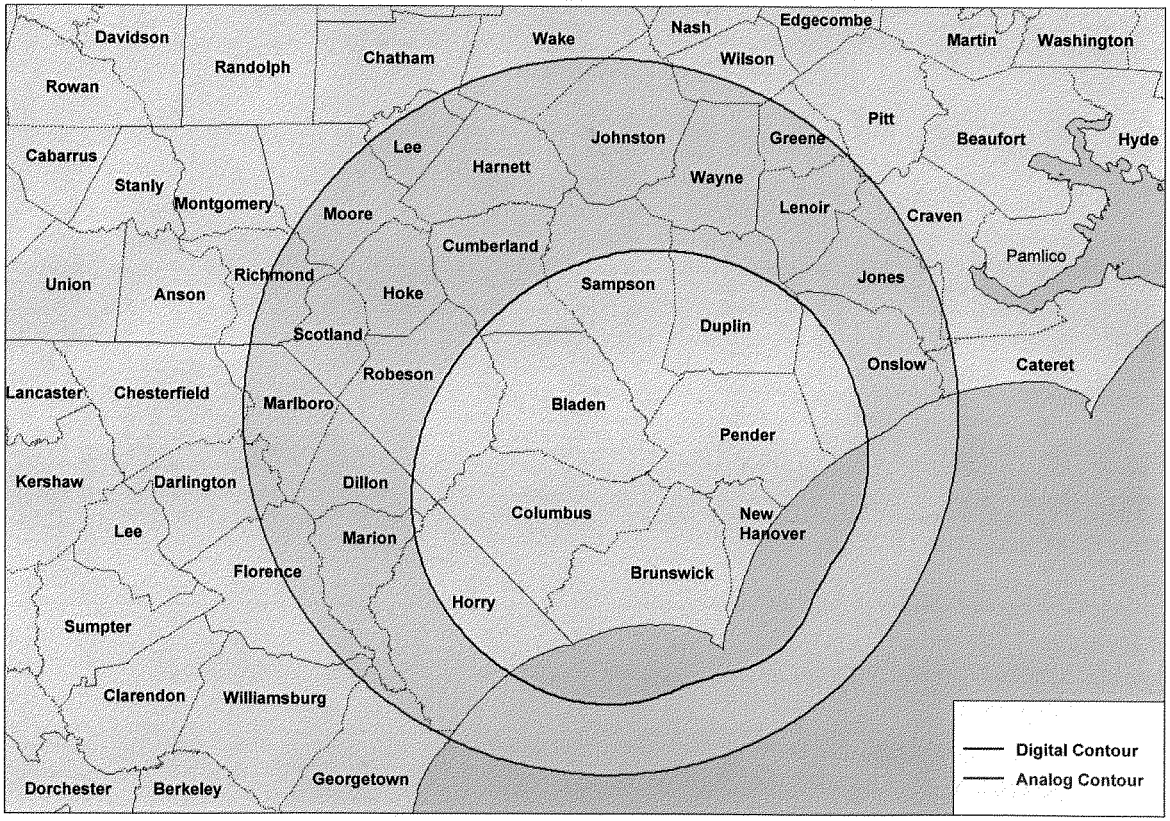
Below is a summary of activities taken in Wilmington during the early transition period. Additional detail regarding the outreach is listed in **Attachment D.**

Wilmington, NC Outreach Summary		
	August	Total
Visits	88	427
Awareness Sessions	90	343
Conferences, Events, & Meetings	1	75
Media Interviews	12	24
Partnerships	0	102

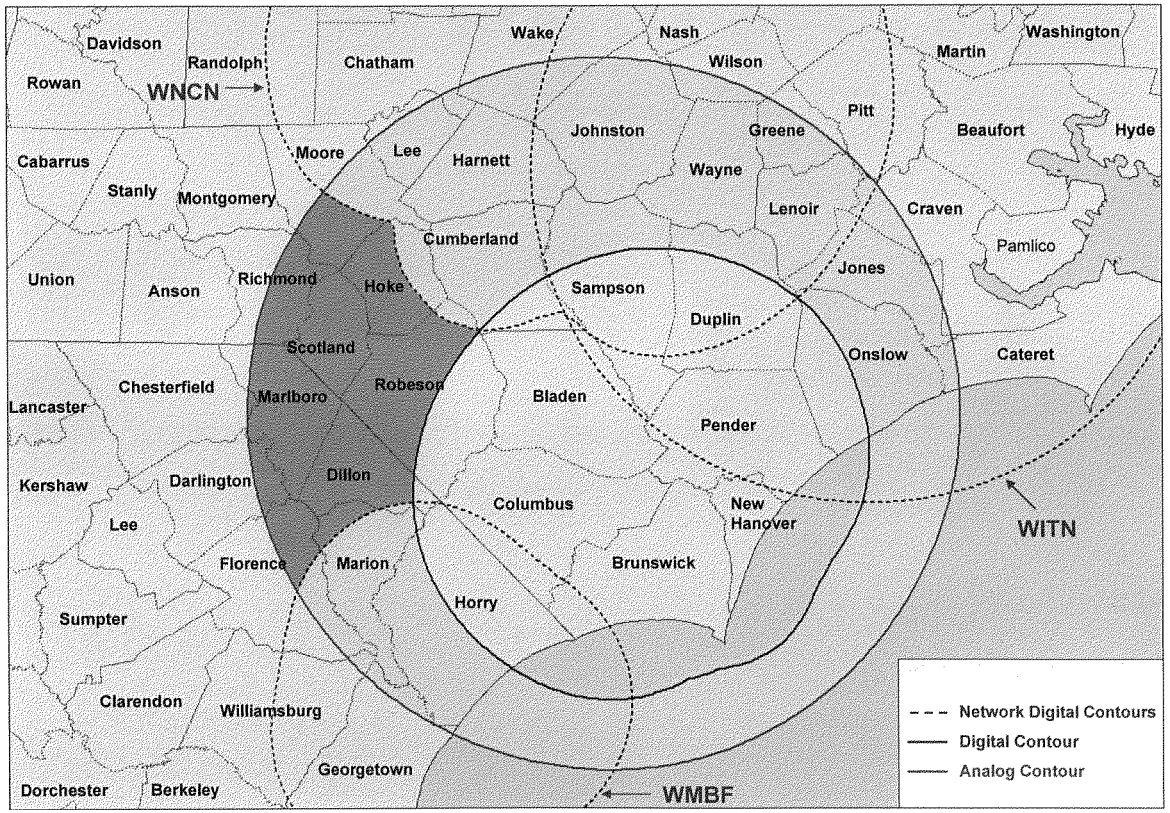
FCC CONSUMER ADVISORIES

Commission staff are continually updating and creating new Consumer Advisories as we become aware of new issues and questions from the public. Recently, based on questions and comments from consumers, the Commission prepared a Consumer Advisory on select features in 41 digital-to-analog converter boxes purchased by the Commission. The features described in the advisory include features of particular interest to the disabilities community, as recommended by the Commission's Consumer Advisory Committee. All of the boxes listed in the advisory are certified under NTIA's converter box coupon program and, therefore, are eligible for purchase using a free converter box coupon issued by NTIA. The advisory will be updated as more NTIA-approved converter boxes become available at retail stores and online. A copy of the Converter Box Features Consumer Advisory is included in **Attachment E.**

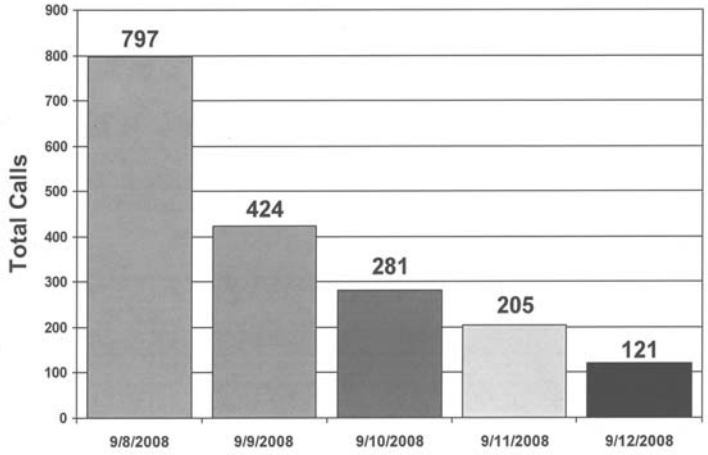
WECT DIGITAL AND ANALOG SERVICE CONTOURS



WECT DIGITAL AND ANALOG SERVICE CONTOURS WITH NEARBY NBC AFFILIATES

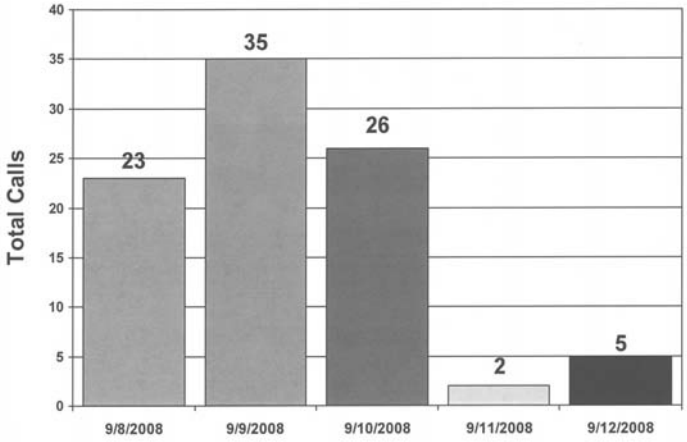


Total Call Volume - Wilmington



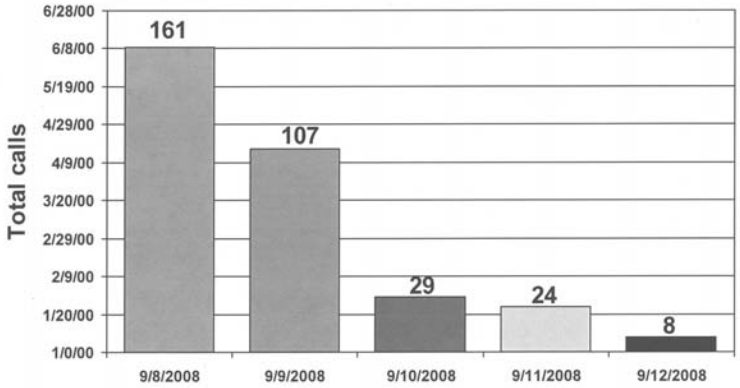
Total Calls – 1,828

Consumers Who Were Not Aware of the Transition



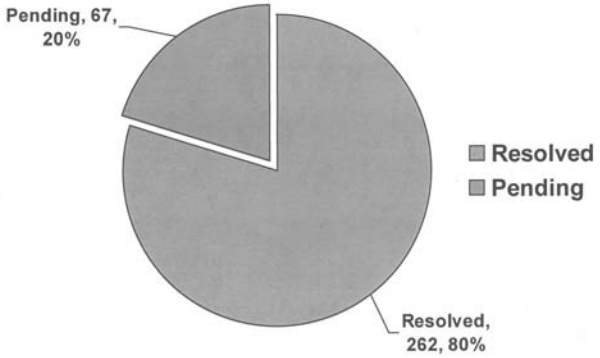
Total Calls – 91

Total Converter Box Issues



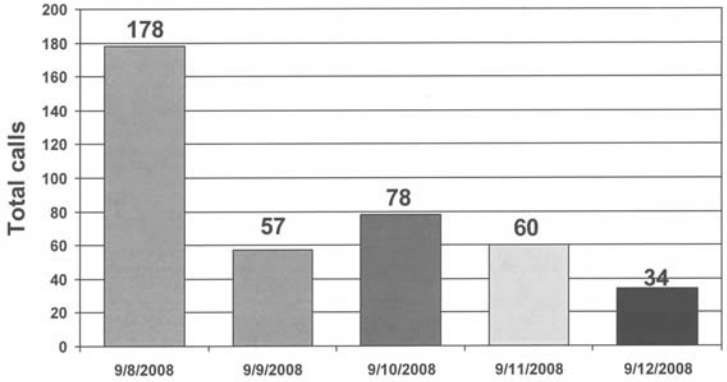
Total Calls = 329

Total Converter Box Issues



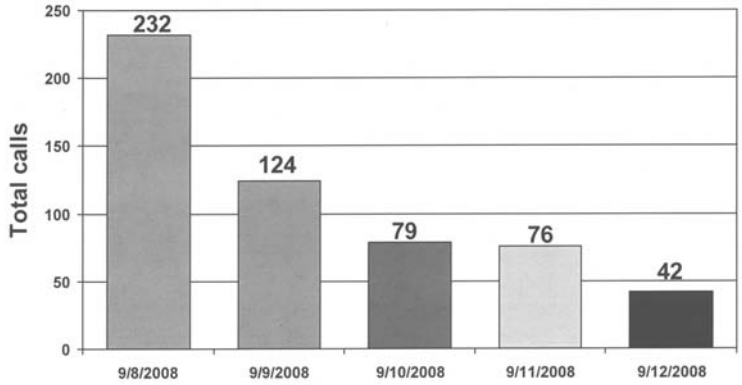
Total Calls = 329

Total Antenna and Reception Issues



Total Calls = 407

Channel 6/44 Reception Issues



Total Calls = 553

Wilmington, NC DTV Transition
Overview of DTV Calls

Wilmington, NC Transition Calls for Week of September 8, 2008

Overview/Analysis of Wilmington Transition Test DTV Calls

Category	Count	% Households
CONSUMERS WHO WERE NOT AWARE OF THE TRANSITION		
They were not aware of the switch to DTV	23	
They were unaware of the correct transition date	26	
They did not think the stations they watch would switch to digital	42	
Subtotal:	**91**	0.05%
CONSUMERS WHO WERE AWARE BUT DID NOT ACT		
They forgot to upgrade	56	
They were unable to attain assistance to upgrade	11	
They relied on another member of their household to upgrade	7	
They waited too long to buy or set up a digital set or a converter box	70	
They were out of town or too busy or knew they could do it later	19	
Subtotal:	**163**	0.09%
CONSUMERS WHO HAD PROBLEMS WITH THE CONVERTER BOX COUPON PROGRAM		
A coupon did not arrive in time	64	
Wanted coupon or had not received coupon from NTIA	119	
The retail store was out of boxes	2	
Subtotal:	**185**	0.10%
CONSUMERS WHO HAD INITIAL DIFFICULTY WITH THEIR CONVERTER BOXES		
Setting up converter boxes was too hard	57	
They didn't understand the instructions for the digital set or the converter box	66	
Their converter box "didn't work"	206	
Subtotal:	**329**	0.18%
CONSUMERS WHO HAD RECEPTION AND TECHNICAL PROBLEMS		
Their antenna didn't work or they have no antenna or their antenna wasn't connected	114	0.06%
Problem with channel or call sign	157	0.08%
Weak or spotty signal	136	0.07%
Subtotal:	**407**	0.22%
* Combination of "antenna didn't work" and "weak or spotty signal" is 250 calls.		0.13%
CONSUMERS COMPLAINING ABOUT NOT RECEIVING WILMINGTON SIGNALS		
Problem with channel or call sign	553	
Subtotal:	**553**	0.29%
OTHER PROBLEMS		
Satellite subscribers to Dish Network or Direct TV – did not subscribe to local package	53	0.03%
They thought all their sets were hooked up to cable or satellite	22	0.01%
They were waiting for cable or satellite installation	13	0.01%
Wanted DTV consumer information sent to them	12	0.01%
Subtotal:	**100**	0.05%
Total	**1,828**	0.98%

Nielsen TV Households for the 2007-2008 TV season 187,480

Wilmington, NC DTV Transition
Overview of DTV Calls

Wilmington, NC Transition Calls for Week of September 8, 2008

Overview/Analysis of Wilmington Transition Test DTV Calls

Category	Count	% Households
CONSUMERS WHO WERE NOT AWARE OF THE TRANSITION		
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Subtotal:	**91**	0.66%
CONSUMERS WHO WERE AWARE BUT DID NOT ACT		
They forgot to upgrade	56	
They were unable to attain assistance to upgrade	11	
They relied on another member of their household to upgrade	7	
They waited too long to buy or set up a digital set or a converter box	70	
They were out of town or too busy or knew they could do it later	19	
Subtotal:	**163**	1.18%
CONSUMERS WHO HAD PROBLEMS WITH THE CONVERTER BOX COUPON PROGRAM		
A coupon did not arrive in time	64	
Wanted coupon or had not received coupon from NTIA	119	
The retail store was out of boxes	2	
Subtotal:	**185**	1.34%
CONSUMERS WHO HAD INITIAL DIFFICULTY WITH THEIR CONVERTER BOXES		
Setting up converter boxes was too hard	57	
They didn't understand the instructions for the digital set or the converter box	66	
Their converter box "didn't work"	206	
Subtotal:	**329**	2.39%
CONSUMERS WHO HAD RECEPTION AND TECHNICAL PROBLEMS		
Their antenna didn't work or they have no antenna or their antenna wasn't connected	114	0.83%
Problem with channel or call sign	157	1.14%
Weak or spotty signal	136	0.99%
Subtotal:	**407**	2.96%
* Combination of "antenna didn't work" and "weak or spotty signal" is 250 calls.		1.82%
CONSUMERS COMPLAINING ABOUT NOT RECEIVING WILMINGTON SIGNALS		
Problem with channel or call sign	553	
Subtotal:	**553**	4.02%
OTHER PROBLEMS		
Satellite subscribers to Dish Network or Direct TV – did not subscribe to local package	53	0.39%
They thought all their sets were hooked up to cable or satellite	22	0.16%
They were waiting for cable or satellite installation	13	0.09%
Wanted DTV consumer information sent to them	12	0.09%
Subtotal:	**100**	0.73%
Total	**1,828**	13.29%

Nielsen TV Households for the 2007-2008 TV season 13,759

Mr. MARKEY. Without objection, it will be included in the record in its entirety. We now turn to Ms. Meredith Attwell Baker. She is the Acting Administrator of the National Telecommunications and Information Administration. She, therefore, has primary responsibility for the DTV converter box coupon program. Ms. Baker first joined NTIA as a senior advisor in January of 2004 and was named Deputy Assistant Secretary in February of 2007. We welcome you, Ms. Baker. Whenever you are ready, please begin.

STATEMENT OF MEREDITH BAKER, ACTING ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION, DEPARTMENT OF COMMERCE

Ms. BAKER. Thank you, Mr. Chairman, and Ranking Member Stearns, and members of the subcommittee. I appreciate the opportunity to testify before you today. Educating Americans about the options for the digital transition has been administering an efficient and consumer friendly coupon program have been the top priority for NTIA over the past few years. With 154 days to go until the DTV switch occurs, we have made significant progress. Since the program's launch on January 1 and through September 10, 2008, the volume of coupon applications has been strong. Nearly 27 million coupons have been requested from 14 million households. This is equivalent to more than 105,000 average household requests for each of the 260 days the program has been operational.

Over the last 30 days average household requests are up to 111,000 per day. The rate of coupon redemptions has likewise been strong. Over 10 million coupons have been redeemed through September 10, a rate of 49 percent for all coupons and 55.4 percent for coupons used by over-the-air only households. The cooperation of converter box manufacturers and retailers has greatly contributed to our consumer friendly program and we appreciate their partnership. As of September 10, we have certified 156 converter boxes, including 82 boxes with analog pass-through and at least one, Weingard, that works with a battery pack. The program also now includes more than 23,000 participating retailers with over 29,000 outlets in all 50 states and territories along with 35 on line and 13 telephone retailers.

This list does include two notable recent additions: Amazon.com and Office Depot. To develop and implement outreach for the increased coupon participation by over-the-air households, NTIA correlated current participation rates with the best available industry data. We estimate that about 70 percent of over-the-air households that are potential purchasers of converter boxes have requested coupons as of September 1. In other words, the coupon program participation by over-the-air households is on track in 187 of the Nation's 210 television markets. NTIA is working hard to implement specific outreach plans in the 23 markets where participation rates and the coupon program are lower than expected.

This is a tool and it will continue to evolve and we will continue to share this with the members of this committee. We believe our consumer education efforts are working. Based on the Wilmington test pilot held on September 8, we learned that strong and steady demand for coupons and boxes can stem a rush in the final days leading up to the transition. We also learned that it is important

for consumers to act early so that they have ample time to address any technical issues that might arise in installing the converter box. NTIA has now adopted messaging to apply by and try converter boxes. Consumers should apply early, buy a converter box and try the box to insure that it works troubleshooting for any issue that they may experience well in advance of February 17. The success of the Wilmington pilot shows that when governments, industry, and non-profit groups coordinate closely the whole truly does become greater than the sum of its parts.

Last Friday, 24 Federal agencies convened at the White House to discuss activities across the executive branch agencies to enhance consumer education and assistance to our target populations. It was very encouraging to see how USDA, the VA, HHS, and the IRS, among others, are helping millions of the vulnerable Americans prepare for the digital transition. We continue to explore how these good practices can be applied to other federal agencies to reach a broader cross section of Americans who rely on over-the-air television. I would like to now turn briefly to how NTIA is responding to a couple of key challenges that we have faced administering the coupon program. First, the final rule for the nursing homes and P.O. Box program changes is at the Federal Registrar and is awaiting publication. We are pleased to be taking this step to make the coupon program more inclusive.

In the same vein, the Department of Commerce submitted draft legislation to Congress last week to be able to maximize the number of coupons NTIA could distribute while not exceeding the 1.5 billion in total funds authorized for the program. The legislation provides NTIA with statutory flexibility, if needed, to utilize funds from other programs and to spend up to 7 million to cover administrative expenses of the coupon program association with the high demand. Any additional sums for such purposes would be authorized upon approval of O&B and a 15-day notice to the House Energy and Commerce Committee and Senate Commerce Committee. Assuming that consumer requests for coupons will increase as the February 17 transition date nears, as we all do, NTIA wants to be as prepared as it possibly can be to maximize consumer participation in the coupon program.

Without the flexibility to increase administrative spending if needed, NTIA will be able to distribute 44.5 million coupons. We believe that the draft legislation is a responsible and prudent approach to address potential additional demand for coupons and urge its immediate consideration. Thank you again for the opportunity to testify today, and I will be happy to answer any questions.

[The prepared statement of Ms. Baker follows:]

Testimony of Meredith Attwell Baker
Acting Assistant Secretary for Communications and Information
National Telecommunications and Information Administration
U.S. Department of Commerce
Before the
Subcommittee on Telecommunications and the Internet
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C.
Hearing on the Digital Television Transition

September 16, 2008

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify before you today on behalf of the National Telecommunications and Information Administration (NTIA) regarding the transition to digital television (DTV) and NTIA's implementation of the TV Converter Box Coupon Program (Coupon Program). Educating Americans about their options when full-power television stations cease analog broadcasting on February 17, 2009, and administering an efficient and consumer friendly Coupon Program have been top priorities for NTIA over the past eight and one-half months. NTIA has already served millions of Americans who have requested, received, and redeemed coupons with the purchase of a coupon-eligible converter box (CECB) from among the Program's participating retailers, and we are well poised to assist millions more. With 154 days to go until the DTV switch occurs, the significant progress NTIA has made in meeting the Coupon Program's objectives is matched only by our determination to ensure that as many consumers as possible are aware and prepared for the DTV transition, and that NTIA is able to maximize opportunities for households to participate in the Coupon Program.

My testimony today will focus chiefly on the status of activities and consumer education efforts of NTIA's Coupon Program; the experience gained by the September 8, 2008, DTV switch in Wilmington, North Carolina; and the actions taken by, and in process, at NTIA to maximize opportunities for over-the-air households to participate in the Coupon Program.

Coupon Program Activity

As you know, Title III of the Deficit Reduction Act of 2005, known as the "Digital Television Transition and Public Safety Act of 2005" (the Act), directs the Federal Communications Commission (FCC) to require full-power television stations to cease analog broadcasting on February 17, 2009. The Act directs NTIA to implement and administer the Digital-to-Analog Converter Box Coupon for the purpose of assisting consumers who opt to keep their existing analog TV's working to view over-the-air broadcasts using a converter box.

As required by the Act, the Assistant Secretary of Commerce for Communications and Information must ensure that requesting households receive a maximum of two $40 coupons, via U.S. mail, each to be applied toward the purchase of a digital-to-analog converter box. The Act authorizes NTIA to use up to $990 million to carry out the program, including up to $100 million for expenses incurred for program administration, of which $5 million may be used for consumer education. It also authorizes an additional $510 million in funding to be available upon 60 days advance notice to Congress, $60 million of which may be used for program administration expenses.

Leading up to the launch of the TV Converter Box Coupon Program on January 1, 2008, NTIA undertook extensive preparations beginning with a comprehensive rulemaking proceeding and Request for Proposal (RFP). Through a competitive procurement process, NTIA selected IBM to develop fully operational systems for the application, processing, distribution, and redemption of coupons; and to certify retailers for participation in the program. Working with the FCC, NTIA established a procedure to test and certify coupon-eligible convert boxes (CECBs). The Contract with IBM has all of the elements necessary for a fully operational and well-functioning program

through its conclusion, including the ability to scale the Program as needed to maximize customer participation. Simply stated, the implementation of this Program is without precedent and has presented unique opportunities and challenges along with way. The effectiveness of our efforts in this planning phase, I submit, can be best measured by the results of the Program's implementation.

Coupons Requests, Issuance, and Redemptions

Since January 1, 2008, the Coupon Program has received requests from 14,215,538 households for 26,686,001 coupons through September 10, 2008. This is equivalent to 105,892 average household requests for each of the 260 days the Coupon Program has been operational. Over the past 30 days, the average daily household request rate was slightly higher, at 111,577 average requests, consistent with a trend of slight increases in request rates experienced by the Program over the course of the past few months.

NTIA began processing requests for coupons from OTA households using contingent funds on August 1, 2008, while continuing to process coupon requests from other eligible households from recycled base funds that become available when unredeemed coupons expire. NTIA received the $510 million in contingent funds on June 25, 2008, subsequent to our April 25, 2008, notification to the House Energy and Commerce Committee and the Senate Commerce, Science and Transportation Committee. Based on the number of redeemed coupons and coupons that are still active and have not reached the end of their 90-day expiration, 74 percent of the $890 million in initial funding has been committed, and 21 percent of the $450 million in contingent funding has been committed as of September 10, 2008.

Applications for coupons have been received primarily through the Coupon Program website at www.DTV2009.gov (56.9 percent), and our toll-free telephone number, 1-888-DTV-2009 (40.6 percent); a much smaller percentage of coupon applications (2.5 percent) has been received by fax and by mail. Consumers can expect that coupons will be issued and mailed within 10 to 15 business days from the date in which a coupon application is received. Consumers are able to check on the status of

their coupon application on the Program's web page – https://www.dtv2009.gov/CheckStatus.aspx. NTIA continues to work closely with our contractor, IBM, to ensure that coupon requests are processed in a timely fashion. NTIA is in the process of streamlining its phone system to facilitate consumer coupon requests through its Interactive Voice Response (IVR) and to refer consumer questions to appropriate third parties, such as the FCC and local television stations.

In addition to the high volume of applications, the appeal of the Coupon Program to consumers is demonstrated by the rate of coupon redemptions. Through September 10, 2008, more than 10 million coupons have been redeemed, an overall redemption rate of 49 percent for coupons that have reached the end of the 90-day expiration period. For OTA households, the redemption rate is even higher; 55.4 percent of the coupons that have reached the end of the 90-day expiration period have been redeemed. Since June 2008, NTIA has posted online a Weekly Redemption Report for easy access by retailers, converter box manufacturers, and the public that presents data on overall weekly coupon redemption rates and a breakdown of coupon redemption rates by OTA households. (https://www.ntiadtv.gov/docs/WeeklyRedemptionsReport.pdf)

Using the estimate of the Consumer Electronics Association that 60 percent of OTA households are potential purchasers of converter boxes, and of the Nielsen Company that there were 14 million OTA households on January 1, 2008, NTIA has estimated that 79 percent of this target audience – TV households who rely on television with an antenna and expected to purchase a converter box – have already requested coupons as of September 1, 2008. Further, our analysis confirms that Coupon Program participation by OTA households is on track in 187 of the country's 210 Designated Market Areas (DMAs). Based on our analysis, NTIA is developing and will implement specific outreach plans in the 23 DMAs where participation rates seem to be lower than average. Appendix A of this testimony provides a listing of Coupon Program participation rates of OTA households in each of the nation's 210 television markets.

Coupon-Eligible Converter Boxes and Participating Retailers

A critical factor in the Coupon Program's progress has been the voluntary participation of converter box manufacturers and retailers. NTIA is extremely gratified that we have been able to certify 156 CECBs submitted for testing and certification by manufacturers through September 10, 2008. Each of these converter boxes was designed for the statutory purpose of enabling a consumer to view digital signals on analog television sets.

NTIA continues to certify boxes and is expediting those that have the capability to pass-through analog signals that will continue to be transmitted by many low power television and translator stations after February 17, 2009. As of September 10, 2008, NTIA has certified 82 CECBs with an analog pass-through capability. We appreciate the responsiveness of manufacturers – such as RCA, Craig, Philco, Magnavox, Memorex, and Zenith, among others – to serve consumers' needs for this simple solution to view both digital and analog signals on analog television sets.

From the nation's largest consumer electronics retailers – Best Buy, Circuit City, Radio Shack, Sears, Target, and Walmart – to the hundreds of regional chains and smaller firms, we are likewise pleased that retailers have made converter boxes widely available. Through September 10, 2008, 2,340 retailers are participating in the Coupon Program, with over 29,000 retail outlets nationwide, including locations in all 50 states, all DMAs, as well as Guam, Puerto Rico, and the U.S. Virgin Islands. Among these are 35 retailers redeeming coupons online, and 13 retailers that will redeem coupons by phone. We are pleased that Amazon.com and Office Depot are the latest to join the ranks of the Coupon Program's participating retailers.

To achieve the status as a "participating retailer" in the Coupon Program, retailers must certify that their employees are trained, that stores have an inventory of converter boxes, and that their systems are prepared to redeem coupons. Working with IBM, NTIA has made employee training materials available to participating retailers so that they are able to answer consumers' questions about converter boxes and coupon use. To better support the management of CECB inventory, NTIA makes available coupon request data

to retailers on a per state basis, as well as by 3-digit and 5-digit zip code. The cooperation of retailers and box manufacturers alike have greatly contributed to consumers' satisfaction with the Coupon Program, and NTIA is truly grateful for their partnership.

Consumer Education

Educating consumers about the DTV transition and the converter box coupon option has been an integral part of NTIA's Coupon Program. Our efforts have focused on raising awareness among households disproportionately reliant on OTA broadcasting for their television services, namely seniors, minorities, the disabled, low-income, and rural households. NTIA's messaging encourages these and other OTA households to know their options and, if the converter box is their preferred option for making the transition, to request a coupon and purchase a converter box now rather than delay and contend with a possible rush for boxes closer to the transition date. Consumers should plan at least six weeks in advance to "apply, buy and try" – that is, "apply" for their coupons, "buy" their preferred converter box and "try" it to make sure they can receive their favorite channels – to be ready well in advance of February 17, 2009. As a practical matter, consumers should request coupons now to ensure a smooth transition and begin enjoying digital television service.

A recent national survey sponsored by the National Association of Broadcasters (NAB) shows that knowledge about the DTV transition is nearly universal. In a telephone survey of 21,436 households, conducted between the end of March and mid-May, 2008, 90 percent of respondents said they were aware of the February 17, 2009, DTV transition, up from 83 percent in a January 2008 NAB survey. These results reflect the success of the nationwide public education campaigns undertaken by the broadcasting and cable industries, as well as our own public education efforts and those of the 300 Federal, national, regional, and local organizations that have partnered with NTIA to arm consumers with the information they need to be prepared on February 17, 2009.

NTIA's Outreach and Partnerships

For its part, NTIA participates in meetings, conferences, and other fora on an ongoing basis, often with one or more of our partners to educate audiences about the DTV transition and the Coupon Program. For example, in recent months, NTIA attended events held by the American Council on the Blind, the Community Action Partnership of Chicago, Self-Help for the Elderly of San Francisco, and the General Federation of Women's Clubs. We have jointly hosted and participated in coupon application completion events with organizations such as SeniorSource in Dallas/Ft. Worth, Texas; the Maryland Department of General Services in Baltimore, Maryland; JobStarts in Englewood, California; and KNME-PBS in Albuquerque, New Mexico.

NTIA's consumer education efforts do not begin and end with Coupon Program staff. Rather, members of my staff and I, along with others in the Department of Commerce have participated in numerous events, including town hall meetings convened in the districts of members of Congress, such as Chairman Dingell, Rep. John Shimkus of Illinois, Rep. Mike McIntyre of Wilmington, North Carolina, and Rep. Ciro Rodriguez of Texas. As you know, Commerce Secretary Carlos Gutierrez has likewise been extremely active in helping educate Americans about the DTV transition and the Coupon Program. He continues to conduct media interviews in both Spanish and English, and speaks to audiences throughout the country to help raise public awareness. Most recently, Secretary Gutierrez participated in a public education event held at a Circuit City retail store in Atlanta, accompanied by Georgia Governor Sonny Perdue.

As I noted earlier, NTIA analyzed Coupon Program participation by DMA, enabling us to better target consumer education efforts and reach out to media in markets with high rates of OTA households and/or key demographic populations. For example, in July and August 2008, NTIA staff conducted 117 media interviews, including outlets such as The Maui News (Honolulu, HI), Eureka Reporter (Eureka, CA), KBBI-AM/KDLL-FM (Anchorage, AK), Star News (Wilmington, NC), AARP Bulletin (seniors), Sister 2 Sister (African American magazine), KOVR-TV (Sacramento, CA), KBOW-AM (Butte-Bozeman, MT), and Alaska Public Radio.

Working with the communications firm, Ketchum, NTIA continues to track media impressions regarding the DTV transition and the Coupon Program. The following chart shows the cumulative number of print circulation, online unique visits, and broadcast impressive from September 10, 2007, through August 31, 2008.

Period	Print Circulation	Online Unique Visits	Broadcast Impressions
As of January 31, 2008	55,287,903	790,968,896	61,930,084
As of February 29, 2008	86,704,470	1,461,800,861	77,976,320
As of March 31, 2008	101,948,865	1,831,462,304	97,279,716
As of April 30, 2008	133,133,069	2,475,646,251	133,325,921
As of May 31, 2008	149,212,817	2,738,704,788	176,597,506
As of June 30, 2008	162,552,550	2,951,814,191	242,916,367
As of July 31, 2008	183,117,820	3,097,501,422	292,567,681
As of August 31, 2008	197,260,220	3,285,822,971	332,884,358

NTIA is now working with over 24 Federal departments and agencies with direct communications to vulnerable populations, such as the U.S. Department of Agriculture, the Department of Health and Human Services' Administration on Aging, and the Department of Veterans Affairs. More recently, the Office of Management and Budget, the Office of Science and Technology Policy, NTIA, and the FCC, spearheaded an inter-agency Federal DTV Awareness meeting, convened on September 12, 2009, to expand the number of Federal partners that can utilize direct communications with the public to raise awareness of the DTV transition and the Coupon Program.

Statutory Flexibility to Expand Consumer Education

NTIA appreciates the flexibility provided by the "DTV Transition Assistance Act" (Pub. L. 110-295) (Assistance Act), signed into law by President Bush on July 30, 2008, which will provide an additional mechanism to expand our public education efforts. As you know, there are two key provisions of the Assistance Act: 1) enabling NTIA to more immediately begin providing grant support for the digital upgrade of low power television and translator stations; and 2) authorizing NTIA to utilize surplus funds in the Low Power Television and Translator Station Conversion Program (providing grant support to low power

television and translator stations for the purchase a digital-to-analog conversion device) for purposes of consumer education and technical assistance related to the DTV transition and the Coupon Program.

Pursuant to the Assistance Act, NTIA issued a notice on August 28, 2008, confirming a determination that only $3.5 million of the full funding amount for the Conversion Program ($8 million) would be necessary. This allows for $4.5 million of these funds to become available for consumer education and technical assistance related to the DTV transition and the Coupon Program. This determination was based on the number of potential eligible Conversion Program applicants, the number of grant applications received through July 31, 2008, and the number of facilities receiving authorization from the FCC to upgrade to digital transmission via flash-cut.

We have already received expressions of interest, and encourage the submission of other proposals, to provide consumer education and technical assistance as provided for in the Assistance Act. NTIA will act as expeditiously as possible to formalize agreements for these purposes.

Wilmington DTV Transition Test Pilot

Leveraging the awareness-building activities of the variety of partners that participated in the Wilmington DTV transition test pilot on September 8, 2008, not only contributed to Wilmington's success, but it also demonstrates early preparation and mobilizing of existing assets by communities can help ensure that their citizens experience a smooth transition to digital television. I commend the people of Wilmington and the many Wilmington area volunteers and community leaders, television broadcasters, and participating retailers, as well as the FCC, and all other involved stakeholders for their efforts to ensure that Wilmington households were prepared and that the test pilot was a success.

Among the steps taken in Wilmington contributing to this success, broadcasters were nimble in modifying their messaging to increase awareness of the early transition date and reduce confusion among Wilmington consumers about their need to act early.

The minute-long test run by Wilmington broadcasters in advance of the September 8 switch also proved to be a useful way to help consumers pinpoint whether they really needed a converter box. The consumer electronics industry and box manufacturers also stepped up to support this effort to make converter boxes widely available in stores to meet high demand. I especially appreciate their willingness to donate boxes to nursing homes and troubleshooting advice for consumers. Local firefighters and community groups provided helpful technical assistance to households, including converter box installation for the more vulnerable among Wilmington's citizens.

The Wilmington test pilot was an important opportunity for NTIA to gauge consumer awareness and participation in the Coupon Program. Through September 7, NTIA received requests for more than 69,000 coupons from 37,500 households in the Wilmington DMA, 47 percent of which were from OTA households. Of the coupons issued and mailed, over 28,000 were redeemed as of September 7. We were pleased with the strong response for coupons from Wilmington households; requests for coupons increased 300 percent since the May 8, 2008, FCC announcement of the test pilot. Strong and steady demand for coupons and boxes over the past four months stemmed a rush in the final days leading up to the September 8 switch.

The primary lesson NTIA gained from Wilmington is that we must emphasize to an even greater extent the need for consumers that rely on OTA broadcasts for viewing on analog television sets to apply for a coupon and purchase a converter box well in advance of the transition date. It is essential that consumers are aware that it will take several weeks to make adequate preparations – to apply for and receive a coupon, and to purchase and install a converter box – to ensure that all of the analog televisions in their household are prepared when the transition occurs.

Responding to Coupon Program Challenges

Rulemaking on Nursing Home and Post Office Box Program Eligibility

In a Notice of Proposed Rulemaking (NPRM) released on April 24, 2008, NTIA proposed to waive the "eligible household" and application requirements in Section 301.3(a)

and Section 301.3(e) of its Final Rule for individuals residing in nursing homes or other senior-care facilities, subject to alternative application requirements specified therein. NTIA also proposed to permit an otherwise eligible household that utilizes a post office box for mail receipt to apply for and receive coupons subject to providing satisfactory proof of physical residence as specified in the proposed rule. The period for public comment on the NPRM closed on June 9, 2008. NTIA was pleased to receive a total of 44 comments in response to the NPRM, many with thoughtful commentary and suggestions on our proposals to expand the eligibility of the Coupon Program and make it as inclusive as possible. NTIA has been working as quickly as possible to complete this rulemaking. We anticipate that a final rule will be released later this month.

Coupon Reissuance

NTIA has been extremely sensitive to concerns, questions, and requests made for the reissuance of coupons to households that did not, or were unable to, redeem previously requested coupons prior to their expiration date. However, we do not believe the Act provides clear authority for NTIA to issue any additional coupons to households that have already requested and received coupons, even if the coupons were not redeemed in advance of their expiration.

We also do not believe that making such a change to the Program at this time is advisable. The reissuance of coupons would necessitate, we believe, the undertaking and completion of numerous additional actions. The added – and potentially substantial – costs and delays that would accompany each of these actions could jeopardize the Program's ability to achieve its core mission of facilitating a smooth DTV transition.

For example, such a change would require a rulemaking proceeding, similar to NTIA's pending proposed rule amending the eligibility of individuals residing in nursing homes as discussed above. Such a rulemaking, even if conducted on an expedited basis, would not likely be completed before early 2009. A change would also impact NTIA's current contract with IBM to administer the Coupon Program, requiring revision in the operational systems and procedures of the Program. Likewise changes would be needed to

materials currently utilized in Program administration (e.g., online, phone and paper application forms and processes) and consumer education.

Moreover, such a change could seriously compromise NTIA's emphasis on the need for prompt action by consumers to apply for and redeem their coupons, and could cause a last-minute rush on – and potential product shortages of – converter boxes in the latest stages of the DTV transition. Finally, it would be unfair to consumers who redeemed coupons in a timely manner, consistent with the statutory 90-day expiration deadline requirement and existing Coupon Program regulations.

Maximizing Coupon Distribution

As you know, the Act authorizes a total of $1.34 billion for the Coupon Program from both the base ($890 million) and contingent ($450 million) funding levels, an amount sufficient to cover the value of up to 33.5 million redeemed coupons. The remaining $160 million from both base and contingent funding is authorized for administrative expenses which includes, but is not limited to, those costs associated with the distribution and processing (*i.e.*, not the underlying value) of each coupon.

As noted earlier, the Coupon Program is receiving over 105,000 average daily requests from households for coupons, and the overall coupon redemption rate currently stands at just under 50 percent. Assuming that consumer requests for coupons will increase as the February 17, 2009, transition dates nears, and that the redemption rate remains constant, NTIA could distribute more than 50 million coupons in total over the life of the Program. Without legislation providing NTIA with greater flexibility to cover its administrative expenses, NTIA will be unable to fully meet this consumer demand and costs associated with expected changes to the Program.

On September 11, 2008, the Department of Commerce submitted to Congress draft legislation that would provide NTIA with the statutory flexibility, if needed, to use available balances in certain Digital Television Transition and Public Safety programs to cover administrative expenses of the Coupon Program above the authorized $160 million. The proposal would enable NTIA to continue coupon distribution to requesting eligible American

households in the event that coupon demand exceeds the level of administrative resources presently authorized for the Coupon Program while still ensuring that overall program costs do not exceed $1.5 billion as established in the Act. Under the draft legislation, $7 million would be available upon enactment and additional funds as needed would be available upon approval of the Office of Management and Budget (OMB) Director and upon 15-day notice to the House Committee on Energy and Commerce and the Senate Committee on Commerce, Science and Transportation.

Waste, Fraud, and Abuse

NTIA remains vigilant in monitoring operations for waste, fraud, and abuse across all components of the Coupon Program. The agency meets regularly with the Department of Commerce Inspector General, the Government Accountability Office, and Department of Commerce auditors to monitor all aspects of the Coupon Program from household requests for coupons to retailer payment for coupon redemptions.

Working with IBM, NTIA has developed a comprehensive and rigorous approach to deterring and detecting waste, fraud and abuse in the Program. In terms of retailer certification, participation and payment, NTIA has protections in place to minimize opportunities for inappropriate retailer behavior.

To date, no egregious instances of waste, fraud, and abuse have been discovered in the Coupon Program. However, several retailers have been decertified for a variety of violations of program rules. In these cases, NTIA has also taken swift action to the extent possible to ensure that retailers remedy any adverse effects suffered by consumers. While the number of decertified retailers is a very small percentage of the total number of certified retailers, NTIA remains committed to taking switch action to avoid any and all waste, fraud, and abuse in the Program.

We are also ensuring that no more than two coupons are sent to each U.S. household, as specified in the Act, and that consumers are unable to use the $40 coupon to purchase ineligible products. To protect consumers we have just issued a "consumer checklist," helping them navigate the Coupon Program. We have also worked with the Federal Trade

Commission and the FCC on a tip-sheet to arm consumers with the information they need to make decisions right for their household.

Preparedness for a Surge

NTIA is aware of the potential for a surge in coupon applications as the February 17, 2009, transition date draws closer. Although the coupon application rate has spiked only rarely over the past eight and one-half months, we recognize that consumer education will intensify in the coming months and that coupon applications could reach more consistently high levels than has been our experience to date. NTIA has designed and administered the Coupon Program in a manner that strives to assure that no Americans lose their television service as a result of the DTV transition. This commitment underlies the Program regulations, as well as NTIA's proposal to expand coupon eligibility to residents of nursing homes and citizens that utilize a post office box for receipt of mail included in our Notice of Proposed Rulemaking.

To the extent that a surge in coupon applications occurs in the days and weeks leading up to the transition date, NTIA will continue to work closely with IBM to ensure that such an increase in applications does not result in an onerous backlog that could compromise the timely distribution of coupons.

Again, this underscores the emphasis of the Coupon Program's key consumer education messaging that consumers should act now to apply for coupons and to redeem them at a participating retailer as soon as possible after their receipt. As noted above, our experience in Wilmington confirms that encouraging people to act now will help avoid lengthy periods of extremely high volumes of coupon requests as the Program draws to an end.

In conclusion, I want to thank the Committee for the opportunity to testify before you today. I will be happy to answer your questions.

Over-the-Air Household Participation Rates in Coupon Program by Designated Market Area (DMA) as of Sept. 1, 2008

	Number of Over-the-Air Households with Approved Requests	Over-the-Air Household Participation Rate*
JUNEAU, AK	218	13%
GLENDIVE, MT	61	30%
ANCHORAGE, AK	6,441	38%
EUREKA, CA	2,023	38%
HONOLULU, HI	5,381	39%
FAIRBANKS, AK	2,903	40%
SEATTLE TACOMA, WA	53,923	43%
BUTTE BOZEMAN, MT	3,123	44%
HELENA, MT	1,466	45%
MISSOULA, MT	5,631	46%
BILLINGS, MT	4,913	48%
GRAND JUNCTION MONTROSE, CO	3,183	51%
GREAT FALLS, MT	2,888	51%
ODESSA MIDLAND, TX	3,783	52%
SAN DIEGO, CA	28,207	52%
BURLINGTON PLATTSBURGH, VT - NY	13,102	53%
MANKATO, MN	2,108	54%
MONROE ELDORADO, LA - AR	7,625	54%
SPOKANE, WA	21,362	55%
SANTA BARBARA SANTA MARIA SAN LUIS OBISPO, CA	5,424	56%
SALT LAKE CITY, UT	68,522	56%
LAS VEGAS, NV	25,382	56%
IDAHO FALLS POCATELLO, ID	7,931	57%
LAFAYETTE, IN	2,455	58%
SACRAMENTO STOCKTON MODESTO, CA	64,735	58%
CASPER RIVERTON, WY	2,064	58%
MONTEREY SALINAS, CA	9,541	58%
CHARLOTTESVILLE, VA	4,085	58%
YAKIMA PASCO RICHLAND KENNEWICK, WA	13,657	59%
TWIN FALLS, ID	3,642	59%
HARTFORD NEW HAVEN, CT	21,384	60%
COLORADO SPRINGS PUEBLO, CO	21,197	60%
SAN ANGELO, TX	1,144	60%
AMARILLO, TX	8,551	61%
BATON ROUGE, LA	9,145	61%
SPRINGFIELD HOLYOKE, MA	8,085	61%
CHICO REDDING, CA	12,646	62%
TOPEKA, KS	8,164	62%
YUMA EL CENTRO, CA	9,668	62%
DENVER, CO	75,299	63%
BOISE, ID	27,165	63%
JOPLIN PITTSBURGH, MO - KS	13,192	63%
MEDFORD KLAMATH FALLS, OR	7,018	63%
ALBUQUERQUE SANTA FE, NM	45,363	63%
TUCSON SIERRA VISTA, AZ	27,342	64%
MINOT BISMARCK DICKINSON, ND	6,465	64%
ELMIRA, NY	2,779	65%
BALTIMORE, MD	58,822	65%

* According to the Consumer Electronics Association, about 60% of over-the-air (OTA) consumers are potential purchasers of converter boxes. The participation rate is the number of OTA requests divided by CEA's estimated market.

Over-the-Air Household Participation Rates in Coupon Program by Designated Market Area (DMA) as of Sept. 1, 2008

	Number of Over-the-Air Households with Approved Requests	Over-the-Air Household Participation Rate*
SHREVEPORT, LA	17,782	65%
PHOENIX, AZ	96,688	65%
ABILENE SWEETWATER, TX	5,081	65%
CHAMPAIGN SPRINGFIELD DECATUR, IL	16,681	65%
INDIANAPOLIS, IN	68,555	66%
FARGO VALLEY CITY, ND	12,488	66%
TALLAHASSEE THOMASVILLE, FL	9,747	67%
ST. JOSEPH, MO	2,619	68%
DALLAS FT. WORTH, TX	210,358	68%
BAKERSFIELD, CA	14,345	68%
WICHITA FALLS LAWTON, TX - OK	7,278	68%
SYRACUSE, NY	18,063	68%
NASHVILLE, TN	46,413	68%
MINNEAPOLIS ST. PAUL, MN	159,383	69%
PORTLAND AUBURN, ME	21,994	69%
WICHITA HUTCHINSON, KS	24,347	69%
WASHINGTON, DC	82,489	70%
ROCHESTER, NY	27,466	70%
PROVIDENCE NEW BEDFORD, RI - MA	25,012	70%
LOS ANGELES, CA	412,401	70%
RAPID CITY, SD	4,222	70%
MEMPHIS, TN	39,403	71%
HARRISONBURG, VA	3,667	71%
ROCKFORD, IL	10,524	71%
CHEYENNE SCOTTSBLUFF, WY - NE	2,211	72%
CLEVELAND AKRON CANTON, OH	87,590	72%
PEORIA BLOOMINGTON, IL	13,955	72%
BEND, OR	4,275	73%
TYLER LONGVIEW LUFKIN NACOGDOCHES, TX	13,631	73%
JOHNSTOWN ALTOONA, PA	7,971	73%
CORPUS CHRISTI, TX	9,594	73%
BLUEFIELD BECKLEY OAK HILL, WV	3,997	74%
HOUSTON, TX	200,611	74%
LUBBOCK, TX	14,143	74%
LITTLE ROCK PINE BLUFF, AR	29,502	74%
CINCINNATI, OH	73,066	74%
PADUCAH CAPE GIRARDEAU MARION CARBONDALE MCLEANSBORO POPULAR BLUFF MT. VERNON, KY - MO - IL	24,139	75%
ALPENA, MI	939	75%
HARLINGEN MCALLEN BROWNSVILLE, TX	55,083	76%
SIOUX FALLS MITCHELL, SD	13,406	77%
TOLEDO, OH	34,668	77%
PORTLAND, OR	97,950	77%
SAVANNAH, GA	10,489	77%
YOUNGSTOWN, OH	17,297	78%
LINCOLN HASTINGS KEARNY, NE	16,233	78%
EUGENE, OR	17,439	78%

* According to the Consumer Electronics Association, about 60% of over-the-air (OTA) consumers are potential purchasers of converter boxes. The participation rate is the number of OTA requests divided by CEA's estimated market.

Over-the-Air Household Participation Rates in Coupon Program by Designated Market Area (DMA) as of Sept. 1, 2008

	Number of Over-the-Air Households with Approved Requests	Over-the-Air Household Participation Rate*
MARQUETTE, MI	3,659	78%
NORTH PLATTE, NE	780	79%
ATLANTA, GA	80,154	79%
WACO TEMPLE BRYAN, TX	18,389	79%
MADISON, WI	34,371	79%
AUSTIN, TX	38,632	79%
RENO, NV	13,292	79%
ALBANY SCHENECTADY TROY, NY	24,020	79%
LA CROSSE EAU CLAIRE, WI	17,091	79%
SAN FRANCISCO OAKLAND SAN JOSE, CA	121,651	79%
BIRMINGHAM ANNISTON TUSCALOOSA, AL	30,040	80%
COLUMBUS, OH	54,278	80%
GREENVILLE NEW BERN WASHINGTON, NC	17,718	80%
FRESNO VISALIA, CA	60,300	80%
JACKSONVILLE BRUNSWICK, FL - GA	30,881	81%
EVANSVILLE, IN	16,695	81%
COLUMBIA JEFFERSON CITY, MO	14,196	81%
KANSAS CITY, KS - MO	61,754	81%
ROANOKE LYNCHBURG, VA	26,907	81%
NORFOLK PORTSMOUTH NEWPORT NEWS, VA	31,324	81%
JACKSON, MS	17,325	82%
LEXINGTON, KY	21,316	82%
ALBANY, GA	5,630	82%
ST. LOUIS, MO	114,595	82%
SIOUX CITY, IA	11,985	82%
BEAUMONT PORT ARTHUR, TX	8,861	82%
HUNTSVILLE DECATUR FLORENCE, AL	17,338	82%
TULSA, OK	42,588	82%
GRAND RAPIDS KALAMAZOO BATTLE CREEK, MI	63,294	83%
OTTUMWA KIRKSVILLE, IA - MO	3,615	83%
TAMPA ST. PETERSBURG SARASOTA, FL	76,147	83%
MILWAUKEE, WI	93,592	83%
COLUMBUS TUPELO WEST POINT, MS	11,222	84%
DAYTON, OH	43,697	84%
CHARLESTON, SC	17,521	85%
ERIE, PA	13,140	85%
DAVENPORT ROCK ISLAND MOLINE, IA - IL	23,055	85%
KNOXVILLE, TN	29,600	85%
LANSING, MI	22,141	85%
DES MOINES AMES, IA	45,064	86%
BANGOR, ME	13,739	87%
LOUISVILLE, KY	45,425	87%
CLARKSBURG WESTON, WV	3,365	87%
MIAMI FT. LAUDERDALE, FL	66,009	87%
COLUMBUS, GA	8,574	87%
WEST PALM BEACH FT. PIERCE, FL	16,230	88%
TERRE HAUTE, IN	10,605	88%
BOSTON MANCHESTER, MA - NH	65,215	88%

* According to the Consumer Electronics Association, about 60% of over-the-air (OTA) consumers are potential purchasers of converter boxes. The participation rate is the number of OTA requests divided by CEA's estimated market.

Over-the-Air Household Participation Rates in Coupon Program by Designated Market Area (DMA) as of Sept. 1, 2008

	Number of Over-the-Air Households with Approved Requests	Over-the-Air Household Participation Rate*
ROCHSTER MASON CITY AUSTIN, IA	11,255	89%
SPRINGFIELD, MO	47,016	89%
RALEIGH DURHAM FAYETTEVILLE, NC	67,682	89%
CHARLOTTE, NC	58,139	89%
DULUTH SUPERIOR, MN	20,784	89%
CHICAGO, IL	282,376	90%
PALM SPRINGS, CA	4,275	90%
JACKSON, TN	4,881	90%
BUFFALO, NY	33,625	90%
LAKE CHARLES, LA	4,791	91%
GREENSBORO HIGH POINT WINSTON SALEM, NC	40,230	91%
MACON, GA	11,698	91%
WILKES BARRE SCRANTON, PA	23,047	92%
TRAVERSE CITY CADILLAC, MI	22,321	92%
DETROIT, MI	121,971	93%
CEDAR RAPIDS WATERLOO DUBUQUE, IA	28,865	94%
MERIDIAN, MS	5,035	94%
EL PASO, TX	49,724	94%
BOWLING GREEN, KY	5,078	94%
PANAMA CITY, FL	8,203	94%
GREENVILLE SPARTANBURG ASHVILLE ANDERSON, NC - SC	55,624	94%
HARRISBURG LANCASTER LEBANON YORK, PA	35,543	94%
FT. SMITH FAYETTEVILLE SPRINGDALE, AR+A197	16,074	95%
PITTSBURGH, PA	54,574	95%
FT. WAYNE, IN	36,578	96%
AUGUSTA, GA	15,859	96%
DOTHAN, AL	4,327	97%
CHATTANOOGA, TN	20,182	97%
SAN ANTONIO, TX	67,784	99%
FLINT SAGINAW BAY CITY, MI	40,319	99%
OKLAHOMA CITY, OK	62,116	100%
GREENWOOD GREENVILLE, MS	2,986	100%
RICHMOND PETERSBURG, VA	31,768	100%
GREEN BAY APPLETON, WI	58,686	100%
PARKERSBURG, WV	2,618	100%
LAFAYETTE, LA	11,598	101%
SHERMAN ADA, TX - OK	10,460	101%
PHILADELPHIA, PA	134,008	101%
NEW YORK, NY	228,786	101%
ALEXANDRIA, LA	3,829	102%
LAREDO, TX	9,358	103%
WHEELING STEUBENVILLE, WV	6,701	103%
MOBILE PENSACOLA, AL - FL	30,484	103%
JONESBORO, AR	5,266	103%
FT. MYERS NAPLES, FL	18,194	107%
UTICA, NY	5,207	108%
ORLANDO DAYTONA BEACH MELBOURNE, FL	63,115	108%
NEW ORLEANS, LA	26,098	108%

* According to the Consumer Electronics Association, about 60% of over-the-air (OTA) consumers are potential purchasers of converter boxes. The participation rate is the number of OTA requests divided by CEA's estimated market.

Over-the-Air Household Participation Rates in Coupon Program by Designated Market Area (DMA) as of Sept. 1, 2008

	Number of Over-the-Air Households with Approved Requests	Over-the-Air Household Participation Rate*
BINGHAMTON, NY	6,929	109%
TRI CITIES, VA - TN	15,642	109%
GAINESVILLE, FL	6,828	109%
LIMA, OH	3,600	110%
WATERTOWN, NY	5,506	110%
HATTIESBURG LAUREL, MS	8,169	110%
ZANESVILLE, OH	1,619	110%
OMAHA, NE	30,484	110%
VICTORIA, TX	2,073	111%
SOUTH BEND ELKHART BENTON HARBOR, IN	50,712	112%
MONTGOMERY SELMA, AL	13,770	119%
WAUSAU RHINELANDER, WI	25,094	121%
COLUMBIA, SC	36,979	123%
BILOXI GULFPORT, MS	7,026	123%
MYRTLE BEACH FLORENCE, SC	23,155	132%
CHARLESTON HUNTINGTON, WV	24,384	133%
PRESQUE ISLE, ME	2,860	138%
QUINCY HANNIBAL KEOKUK - MO - IA	13,360	148%
SALISBURY, MD	8,276	158%
WILMINGTON, NC	16,726	203%

* According to the Consumer Electronics Association, about 60% of over-the-air (OTA) consumers are potential purchasers of converter boxes. The participation rate is the number of OTA requests divided by CEA's estimated market.

Mr. MARKEY. Thank you so much. The time has expired. Our final witness, Mr. Mark Goldstein, is the Director of Physical Infrastructure for the Government Accountability Office. He has also been a frequent visitor to this committee regarding the DTV transition and today he will discuss GAO's latest report on the DTV converter box coupon program. Welcome back, Mr. Goldstein. Whenever you feel comfortable, please begin.

STATEMENT OF MARK L. GOLDSTEIN, DIRECTOR, PHYSICAL INFRASTRUCTURE ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. GOLDSTEIN. Thank you, Mr. Chairman and members of the subcommittee. I am pleased to be here today to discuss the GAO report that we are issuing on NTIA's implementation of the mandated converter box subsidy program. The federal government and the private sector have taken many steps to prepare for the DTV transition. NTIA created and implemented a digital to analog converter box subsidy program. Additionally, the government, television broadcast industry, cable and satellite providers, and other carriers of broadcast signals have established several educational efforts informing consumers about DTV and the subsidy program. However, the success of the DTV transition and the subsidy program requires consumer' understanding about the transition and the steps needed to continue receiving a television signal.

In addition, consumers will rely on retailers to provide information, as well as supply eligible converter boxes for the program. In my testimony today, I discuss what consumer education efforts have been undertaken by private and federal stakeholders and how effective NTIA has been in implementing the converter box subsidy program and to what extent consumers are participating in the program. First, private sector and federal stakeholders have undertaken various consumer education efforts to raise awareness about the transition. For example, the National Association of Broadcasters and the National Cable and Telecommunications Association have committed over 1.4 billion to educate consumers about the transition. This funding has supported the developed of public service announcements, education programs for web broadcasts, Web sites, and other activities.

In addition, most national retailers participating in the converter box program have developed consumer education campaigns to raise awareness of the transition in the program. Federal stakeholders, the FCC, and NTIA have developed consumer education plans that target those populations most likely to be affected by the transition. In particular, they have focused their outreach efforts on certain demographic groups including seniors, low income, minority and non-English speaking and rural households and persons with disabilities. Second, NTIA is effectively implementing the converter box subsidy program but plans to address a likely increase in coupon demand as the transition nears remain unclear.

As of August 31, 2008, NTIA had issued approximately 24 million coupons and as of that date approximately 13 percent of U.S. households had requested coupons. As found in our recent survey, up to 35 percent of U.S. households could be affected by the transition because they have at least 1 television not connected to a sub-

scription service such as satellite or cable. In U.S. households relying solely on over-the-air broadcasts, approximately 15 percent. Of those who intend to purchase a converter box, 100 percent of survey respondents told us they were likely to request a coupon. Therefore, a spike in demand for converter box coupons is likely as the transition date nears. According to NTIA, an increase in requests around the transition date may cause a delay in issuing coupons.

However, we found that NTIA has no specific plans to address an increase in demand and that it hasn't encountered challenges in issuing coupons within its requirement of 10 to 15 days from the date the coupon application was approved. Given the challenges to meet this requirement and its lack of a clear plan to address a potential spike in demand, consumers might incur a significant wait time to receive their coupons and might lose television service if their wait time lasts beyond February 17, 2009. In terms of participation in the converter box subsidy program, we analyzed coupon data in areas of the country comprised of predominantly minority and senior populations and found that participation varies. For example, we found that zip codes with high concentrations of Latino or Hispanic households had noticeably higher coupon request rates, 28 percent, when compared to areas with predominantly non-Latino or non-Hispanic households of about 12 percent.

We also found households in both predominantly black and Hispanic or Latino areas were less likely compared to households outside these areas to redeem their coupons once they receive them. Additionally, we analyzed participation in the converter box subsidy program in the 45 areas of the country on which NTIA and FCC focus their consumer education efforts, and we found coupon requests to be roughly the same for zip codes within the 45 targeted areas as compared with areas that were not targeted. NTIA estimates it will see a large increase in the number of coupon requests in the first quarter of 2009 and our analysis confirms that, and as the transition nears a spike in coupons is likely. However, NTIA has not developed a plan for managing that potential spike or sustained increase in coupon demand. The time required for processing coupons has improved since consumers incurred significant wait times to receive their coupons at the beginning of the program but until recently NTIA fell short of its requirement for processing coupons within 10 to 15 days.

Given the relatively low participation rates to date and the amount of time it took to process the spike in coupon requests early in the program NTIA's ability to handle volatility in the program remains uncertain and consequently consumers do face potential risks that they may not receive their coupons before the transition might lose their television service. That is why we have mentioned in our report, we have recommended that NTIA take actions to improve a plan that they might be able to put in place. Mr. Chairman, this concludes my prepared remarks. I would be happy to respond to any questions you or members have.

[The prepared statement of Mr. Goldstein follows:]

United States Government Accountability Office

GAO

Testimony
Before the House Subcommittee on Telecommunications and the Internet

For Release on Delivery
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DIGITAL TELEVISION TRANSITION

Information on the Implementation of the Converter Box Subsidy Program and Consumer Participation in the Program

Statement of Mark L. Goldstein, Director
Physical Infrastructure

GAO-08-1161T

September 16, 2008

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Accountability· Integrity· Reliability

Highlights

Highlights of GAO-08-1161T, a testimony before the House Subcommittee on Telecommunications and the Internet

DIGITAL TELEVISION TRANSITION

Information on the Implementation of the Converter Box Subsidy Program and Consumer Participation in the Program

Why GAO Did This Study

The Digital Television Transition and Public Safety Act of 2005 requires all full-power television stations in the United States to cease analog broadcasting after February 17, 2009, known as the digital television (DTV) transition. The National Telecommunications and Information Administration (NTIA) is responsible for implementing a subsidy program to provide households with up to two $40 coupons toward the purchase of converter boxes. In this testimony, which is based on a report being issued today, GAO examines (1) what consumer education efforts have been undertaken by private and federal stakeholders and (2) how effective NTIA has been in implementing the converter box subsidy program, and to what extent consumers are participating in the program. To address these issues, GAO analyzed data from NTIA and reviewed legal, agency, and industry documents. Also, GAO interviewed a variety of stakeholders involved with the DTV transition.

What GAO Recommends

In the report released today, GAO recommends that the Secretary of Commerce direct NTIA to develop a plan to manage coupon requests in the lead up to the transition. In commenting on a draft of the report, the Department of Commerce did not state whether it agreed or disagreed with GAO's recommendation, but stated its concern about an increase in coupon demand as the transition nears. FCC noted consumer outreach efforts it has taken related to the DTV transition.

To view the full product, including the scope and methodology, click on GAO-08-1161T. For more information, contact Mark L. Goldstein at (202) 512-2834 or goldsteinm@gao.gov.

What GAO Found

Private sector and federal stakeholders have undertaken various consumer education efforts to raise awareness about the DTV transition. For example, the National Association of Broadcasters and the National Cable and Telecommunications Association have committed over $1.4 billion to educate consumers about the transition. This funding has supported the development of public service announcements, education programs for broadcast, Web sites, and other activities. The Federal Communications Commission (FCC) and NTIA have consumer education plans that target those populations most likely to be affected by the DTV transition. Specifically, they identified 45 areas of the country as high risk that included areas with at least 1 of the following population groups: (1) more than 150,000 over-the-air households, (2) more than 20 percent of all households relying on over-the-air broadcasts, or (3) a top 10 city of residence for the largest target demographic groups. The target demographic groups include seniors, low-income, minority and non-English speaking, rural households, and persons with disabilities. In addition to targeting these 45 areas of the country, FCC and NTIA developed partnerships with organizations that serve these hard-to-reach populations.

NTIA is effectively implementing the converter box subsidy program, but its plans to address the likely increase in coupon demand as the transition nears remain unclear. As of August 31, 2008, NTIA had issued almost 24 million coupons and as of that date approximately 13 percent of U.S. households had requested coupons. As found in GAO's recent consumer survey, up to 35 percent of U.S. households could be affected by the transition because they have at least one television not connected to a subscription service, such as cable or satellite. In U.S. households relying solely on over-the-air broadcasts (approximately 15 percent), of those who intend to purchase a converter box, 100 percent of survey respondents said they were likely to request a coupon. With a spike in demand likely as the transition date nears, NTIA has no specific plans to address an increase in demand; therefore, consumers might incur significant wait time to receive their coupons and might lose television service if their wait time lasts beyond February 17, 2009. In terms of participation in the converter box subsidy program, GAO analyzed coupon data in areas of the country comprising predominantly minority and senior populations and found that households in both predominantly black and Hispanic or Latino areas were less likely to redeem their coupons compared with households outside these areas. Additionally, GAO analyzed participation in the converter box subsidy program in the 45 areas of the country on which NTIA and FCC focused their consumer education efforts and found coupon requests to be roughly the same for zip codes within the 45 targeted areas compared with areas that were not targeted. Retailers play an integral role in the converter box subsidy program by selling the converter boxes and helping to inform their customers about the DTV transition. GAO visited 132 randomly selected retail stores in 12 cities. Store representatives at a majority of the retailers GAO visited were able to correctly state that the DTV transition would occur in February 2009 and how to apply for a converter box coupon.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss our report being issued today on the National Telecommunications and Information Administration's (NTIA) implementation of the mandated converter box subsidy program.[1]

Federal law requires all full power television stations in the United States to cease analog broadcasting and broadcast digital-only transmissions after February 17, 2009—often referred to as the digital television (DTV) transition. Currently, most television broadcasters transmit over-the-air signals in both an analog and digital format to television households. After the transition, consumers who rely exclusively on over-the-air television signals viewed on analog sets will not be able to view broadcast programming, which could include important news information or emergency alerts, unless they take action. In particular, these consumers could (1) purchase a television capable of processing digital signals, (2) purchase a digital-to-analog converter box that converts the digital signals to analog signals and enables their display on an analog set, or (3) subscribe to cable, satellite, or other service.

The federal government and the private sector have taken several steps to prepare for the DTV transition. NTIA, a bureau within the U.S. Department of Commerce, created and implemented a digital-to-analog converter box subsidy program to provide households with up to two $40 coupons toward the purchase of converter boxes that allow consumers to continue viewing over-the-air signals on analog television sets.[2] Additionally, the government, television broadcast industry, cable and satellite providers, and other carriers of broadcast signals have established several educational efforts informing consumers about the DTV transition and the subsidy program. However, the success of the DTV transition and the subsidy program requires consumers' understanding about the transition and the steps needed to continue receiving a television signal. In addition, consumers will rely on retailers to provide information, as well as supply eligible converter boxes, for the subsidy program.

[1]GAO, *Digital Television Transition: Implementation of the Converter Box Subsidy Program Is Under Way, but Preparedness to Manage an Increase in Subsidy Demand Is Unclear.* GAO-08-1040 (Washington, D.C.: September 16, 2008).

[2]Eligible converter boxes range in price from $40 to over $90.

In my testimony today, I will discuss (1) what consumer education efforts have been undertaken by private and federal stakeholders and (2) how effective NTIA has been in implementing the converter box subsidy program and to what extent consumers are participating in the program.

To meet these objectives, we interviewed agency officials from the Federal Communications Commission (FCC) and NTIA and reviewed their consumer education documents, orders, rules and proposed rules. We also interviewed private sector stakeholders representing the broadcasting, retailer, manufacturing, and cable industries and reviewed publicly available information on their consumer education planning. Further, we discussed the effectiveness of consumer education efforts with various advocacy groups identified as NTIA partners that represent hard-to-reach populations. We also analyzed date-specific data from NTIA on coupon requests, issuance, redemptions, and expirations, and examined NTIA timeliness in issuing coupons from the beginning of the converter box subsidy program in January through August 2008. We conducted data reliability testing and determined that the data used in this report were sufficiently reliable for our purposes. We conducted a "mystery shopper" study—i.e., discussing the transition with randomly selected retailers without identifying ourselves as government employees—to determine retailer preparedness for the converter box subsidy program including the level of retailer knowledge about the program and availability of converter boxes. The study, in which we visited 132 store locations in 12 cities, was conducted from April to early May 2008. We performed our review from February to September 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our review objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Summary

- Private sector and federal stakeholders have undertaken various consumer education efforts to raise awareness about the DTV transition. For example, the National Association of Broadcasters (NAB) and the National Cable and Telecommunications Association have committed over $1.4 billion to educate consumers about the transition. This funding has supported the development of public service announcements, education programs for broadcast, Web sites, and other activities. In addition, most national retailers participating in the converter box subsidy program have developed consumer education campaigns to raise awareness of the DTV transition and the subsidy program. Federal stakeholders (FCC and NTIA)

have developed consumer education plans that target those populations most likely to be affected by the DTV transition. In particular, they focused their outreach efforts on certain demographic groups, including seniors, low-income, minority and non-English speaking, rural households, and persons with disabilities.

- NTIA is effectively implementing the converter box subsidy program, but plans to address the likely increase in coupon demand as the transition nears remain unclear. As of August 31, 2008, NTIA had issued approximately 24 million coupons and as of that date approximately 13 percent of U.S. households had requested coupons. As found in our recent consumer survey, up to 35 percent of U.S. households could be affected by the transition because they have at least one television not connected to a subscription service, such as cable or satellite.[3] In U.S. households relying solely on over-the-air broadcasts (approximately 15 percent), of those who intend to purchase a converter box, 100 percent of survey respondents said they were likely to request a coupon. Therefore, a spike in demand for converter box coupons is likely as the transition date nears. According to NTIA, an increase in requests around the transition date may cause a delay in issuing coupons. However, we found NTIA has no specific plans to address an increase in demand and that it has encountered challenges in issuing coupons within its requirement of 10 to 15 days from the date the coupon application was approved. Given the challenges to meet this requirement and its lack of a clear plan to address a potential spike in demand, consumers might incur significant wait time to receive their coupons and might lose television service if their wait time lasts beyond February 17, 2009. In terms of participation in the converter box subsidy program, we analyzed coupon data in areas of the country comprised of predominantly minority and senior populations and found that participation varies. For example, we found that zip codes with a high concentration of Latino or Hispanic households had noticeably higher coupon request rates (28 percent) when compared to areas with predominantly non-Latino or non-Hispanic households (12 percent). We also found households in both predominantly black and Hispanic or Latino areas were less likely, compared to households outside these areas, to redeem their coupons once they received them. Additionally, we analyzed participation in the converter box subsidy program in the 45 areas of the country on which NTIA and FCC focused their consumer education efforts

[3]GAO, *Digital Television Transition: Broadcasters' Transition Status, Low-Power Station Issues, and Information on Consumer Awareness of the DTV Transition*, GAO-08-881T (Washington, D.C.: June 10, 2008).

and found coupon requests to be roughly the same for zip codes within the 45 targeted areas compared with areas that were not targeted.

Background

The DTV transition will require citizens to understand the transition and the actions that some might have to take to maintain television service. For those households with subscription video service on all televisions or with all televisions capable of processing a digital signal, no action is required. However, households with analog televisions that rely solely on over-the-air television signals received through rooftop or indoor antennas must take action to be able to view digital broadcast signals after analog broadcasting ceases. The Digital Television Transition and Public Safety Act of 2005 addresses the responsibilities of two federal agencies—FCC and NTIA—related to the DTV transition. The act directs FCC to require full-power television stations to cease analog broadcasting by February 17, 2009. The act also directed NTIA to establish a $1.5 billion subsidy program through which households can obtain coupons towards the purchase of digital-to-analog converter boxes. In August 2007, NTIA selected International Business Machines Corporation (IBM) as the contractor to provide certain services for the program. On January 1, 2008, NTIA, in conjunction with IBM and in accordance with the act, began accepting applications for up to two $40 coupons per household that can apply toward the purchase of eligible digital-to-analog converter boxes and, in mid-February 2008, began mailing the coupons. Initially, during the first phase of the program any household is eligible to request and receive the coupons, but once $890 million worth of coupons has been redeemed, and issued but not expired, NTIA must certify to Congress that the program's initial allocation of funds is insufficient to fulfill coupon requests. NTIA will then receive $510 million in additional program funds, but households requesting coupons during this second phase must certify that they do not receive cable, satellite, or any other pay television service. As of June 24, 2008, in response to NTIA's statement certifying that the initial allocation of funds would be insufficient, all appropriated coupon funds were made available to the program.[4] Consumers can request coupons up to March 31, 2009, and coupons can be redeemed through July 9, 2009. As required by law, all coupons expire 90 days after issuance. As

[4]With the additional $510 million, total program funding is $1.5 billion, which includes up to $1.34 billion in coupon funds and up to $160 million in administrative funds.

unredeemed coupons expire, the funds obligated for those coupons are returned to the converter box subsidy program.

Retailer participation in the converter box subsidy program is voluntary, but participating retailers are required to follow specific program rules to ensure the proper use and processing of converter box coupons. Retailers are obligated to, among other things, establish systems capable of electronically processing coupons for redemption and payment and tracking transactions. Retailers must also train their employees on the purpose and operation of the subsidy program. According to NTIA officials, NTIA initially explored the idea of setting requirements for training content, but decided to allow retailers the flexibility of developing their own training programs and provided retailers with sample training materials. Certification requires retailers to have completed an application form by March 31, 2008, and to attest that they have been engaged in the consumer electronics retail business for at least 1 year. Retailers must also register in the government's Central Contractor Registration database, have systems or procedures that can be easily audited and that can provide adequate data to minimize fraud and abuse, agree to be audited at any time, and provide data tracking each coupon with a corresponding converter box purchase. NTIA may revoke retailers' certification if they fail to comply with these regulations or if any of their actions are deemed inconsistent with the subsidy program. Converter boxes can also be purchased by telephone or online and be shipped directly to a customer's home from participating retailers. At the time of our review, 29 online retailers were participating in the converter box subsidy program. Additionally, 13 telephone retailers were listed as participating in the program, 2 of which are associated with national retailers.

Private and Federal Stakeholders Have Undertaken a Myriad of Activities Aimed at Increasing the Public's Awareness of the Transition

Private sector stakeholders, such as broadcasters and cable providers, have undertaken various education efforts to increase public awareness about the DTV transition. The NAB and the National Cable and Telecommunications Association initiated DTV transition consumer education campaigns in late 2007 at an estimated value of $1.4 billion combined. NAB has produced six versions of a public service announcement, including 15-second and 30-second versions in both English and Spanish and close-captioned versions. Private sector stakeholders have also produced DTV transition educational programs for broadcast and distribution, developed Web sites that provide information on the transition, and engaged in various other forms of outreach to raise awareness. Additionally, most of the national retailers participating in the NTIA converter box subsidy program are providing materials to help

inform their customers of the DTV transition and the subsidy program. Examples of these materials include informational brochures in English and Spanish, educational videos and in-store displays in English and Spanish, informational content on retailer Web sites, and information provided in retailer advertising in Sunday circulars.

FCC and NTIA also have ongoing DTV consumer education efforts, which target populations most likely to be affected by the DTV transition. Specifically, they focused their efforts on 45 areas of the country that have at least 1 of the following population groups: (1) more than 150,000 over-the-air households, (2) more than 20 percent of all households relying on over-the-air broadcasts, or (3) a top 10 city of residence for the largest target demographic groups. The target demographic groups include seniors, low-income, minority and non-English speaking, rural households, and persons with disabilities. According to NTIA, its consumer education efforts will specifically target these 45 areas by leveraging partnerships and earned media spots (such as news stories or opinion editorials) to better reach the targeted populations. FCC indicated that while its outreach efforts focus on the targeted hard-to-reach populations, the only effort specifically targeting the 45 locations has been to place billboards in these communities. According to FCC, contracts exist for billboards in 26 of the 45 markets, and it is working to place billboards in the other 19 markets. Furthermore, FCC and NTIA have developed partnerships with some federal, state, and local organizations that serve the targeted hard-to-reach populations.

NTIA is Effectively Implementing the Converter Box Subsidy Program, But Concerns Exist about NTIA's Ability to Manage a Potential Spike in Demand

NTIA has processed and issued coupons to millions of consumers, but a sharp increase in demand might affect NTIA's ability to respond to coupon requests in a timely manner. NTIA and its contractors have implemented systems (1) to process coupon applications, (2) to produce and distribute coupons to consumers, and (3) for retailers to process coupons and receive reimbursement for the coupons from the government. Millions of consumers have requested converter box coupons and most of the requested coupons have been issued. Through August 2008, households had requested approximately 26 million coupons. NTIA had issued over 94 percent of all coupon requests, for more than 24million coupons. Of those coupons issued, about 9.5 million (39 percent) had been redeemed and 31 percent had expired.[5] After an initial spike at the beginning of the program, coupon requests have remained steady and have averaged over 105,000 requests per day. Coupon redemptions, since coupons were first issued in February 2008, have averaged over 48,000 per day.

In our recent consumer survey, we found that 35 percent of U.S. households are at risk of losing some television service because they have at least one television not connected to a subscription service, such as cable or satellite. However, through August 2008, only 13 percent of U.S. households had requested converter box coupons, and less than 5 percent had redeemed these coupons. As the transition date nears, there is the potential that many affected households that have not taken action might begin requesting coupons. Our consumer survey found that of those at risk of losing some television service and intending to purchase a converter box, most will likely request a coupon. In fact, in households relying solely on over-the-air broadcasts (approximately 15 percent), of those who intend to purchase a converter box, 100 percent of survey respondents said they were likely to request a coupon.

Consumers have incurred significant wait times in the processing of their coupon requests, but the processing time from receiving requests to issuing coupons is improving. NTIA requires that 98 percent of all coupon requests be issued within 10 days, and the remainder be issued within 15 days. From February 17 through August 31, 2008, our analysis shows that the average duration between coupon request and issuance was over 16

[5]Our redemption rate was calculated by dividing the number of redeemed coupons by the total number of issued coupons as of August 31, 2008. The total number of issued coupons includes coupons which had been redeemed, had expired, and had not yet expired as of that date.

days.[6] In aggregate, 53 percent of all coupon requests had been issued within 10 days, and 43 percent of all coupon requests had been issued more than 15 days after being requested. From May 1 through August 31, 2008, the average processing time from coupon request to issuance was 9 days.

Given the processing time required in issuing coupons, NTIA's preparedness to handle volatility in coupon demand is unclear. Fluctuation in coupon requests, including the potential for a spike in requests as the transition date approaches, could adversely affect consumers. When NTIA faced a deluge of coupon requests in the early days of the converter box subsidy program, it took weeks to bring down the deficit of coupons issued to coupons requested. According to NTIA, it expects a similar increase in requests around the transition date, and such an increase may cause a delay in issuing coupons. As a result, consumers might incur significant wait time before they receive their coupons and might lose television service during the time they are waiting for the coupons. While NTIA and its contractors have demonstrated the capacity to process and issue large numbers of coupon requests over short periods, they have yet to establish specific plans to manage a potential spike or a sustained increase in demand leading up to the transition.

We analyzed data to compare areas of the country that comprise predominantly minority and elderly populations with the rest of the U.S. population and found some differences in the coupon request, redemption, and expiration rates for Hispanic, black, and senior households compared with the rest of the U.S. population. For example, zip codes with a high concentration of Latino or Hispanic households had noticeably higher request rates (28 percent) when compared with non-Latino or non-Hispanic zip codes (12 percent). However, households in predominantly black and Latino or Hispanic zip codes were less likely, compared with households outside these areas, to redeem their coupons once they received them. As shown in table 1, the overall rate of redemption for the converter box subsidy program is 39 percent. Approximately 37 percent of coupons have been redeemed in predominantly Latino or Hispanic areas. In predominantly black areas, 32 percent of coupons have been redeemed. We found that in areas of the country with a high concentration of seniors,

[6]For the purposes of our analysis, we assumed that all coupons were issued in the order they were received. According to NTIA, coupon issuance was to begin 1 year from the transition. Therefore the processing time between coupon requests and issuance was calculated beginning on February 17, 2008.

fewer coupons were requested (9 percent) compared with areas of the country that did not have a high concentration of seniors (13 percent). Redemption rates for the senior population were lower than the redemption rates in the rest of the country. Regarding coupon expirations, we found that the areas comprising Latino or Hispanic households allowed 27 percent of their coupons to expire, while areas with predominantly senior populations allowed 43 percent of their coupons to expire.

Table 1: Request, Redemption, and Expiration Rates of Converter Box Coupons through August 2008

	Request rate	Redemption rate	Expiration rate
U.S. population	12.5	39.0	30.5
Latino or Hispanic	27.5	36.6	26.8
Black	13.4	31.5	30.3
Seniors	8.7	34.0	43.2

Source: GAO analysis of NTIA data.

To determine participation in the converter box subsidy program in the 45 areas of the country receiving targeted outreach by NTIA and FCC, we analyzed NTIA coupon data (including requests, redemptions, and expirations) in the 45 areas compared to the rest of the country not targeted by NTIA and FCC. We found minor differences in participation levels in the targeted areas when compared to the rest of the country. For example, we found in the 45 targeted areas, 12.2 percent of households have requested coupons compared with 12.8 percent for the rest of the country not targeted by NTIA and FCC. According to NTIA, similarities in request, redemption, and expiration rates between the 45 targeted areas and the rest of the country is viewed as a success.

As the sellers of the converter boxes, retailers play a crucial role in the converter box subsidy program and are counted on to inform consumers about it. At the time of our review, seven national retailers were certified to participate in the subsidy program. Participating retailers are obligated to, among other things, train employees on the purpose and operation of the subsidy program. All of the retailers with whom we spoke told us they were training employees on the DTV transition and the subsidy program, although the retailers varied in which staff must complete training.

As part of our work, we conducted a "mystery shopper" study by visiting 132 randomly selected retail locations in 12 cities across the United States

that were listed as participating in the converter box subsidy program. We did not alert retailers that we were visiting their stores or identify ourselves as government employees. During our visits, we engaged the retailers in conversation about the DTV transition and the subsidy program to determine whether the information they were providing to customers was accurate and whether individual stores had coupon-eligible converter boxes available. While not required to do so, some stores we visited had informational material available and others had signs describing the DTV transition and the subsidy program. We also determined whether the information that retailers were providing to customers was accurate and whether individual stores had coupon-eligible converter boxes available. At most retailers (118) we visited, a representative was able to correctly identify that the DTV transition would occur in February 2009. Additionally, nearly all (126) retailers identified a coupon-eligible converter box as an option available to consumers to continue watching television after the transition. Besides coupon eligible converter boxes, representatives identified other options to continue viewing television after the transition, including purchasing a digital television (67) or subscribing to cable or satellite service (77). However, in rare instances, we heard erroneous information from the retailers, including one representative who told us that an option for continuing to watch television after the transition was to obtain a "cable converter box" from a cable company and another representative who recommended buying an "HD tuner." Since participating retailers are obligated to train their employees on the purpose and operation of the subsidy program, we observed whether the representative was able to explain various aspects about the subsidy program. A vast majority of the representatives were able to explain how to receive or apply for a coupon and the value of the coupon, while a similar number were able to explain the converter boxes eligible for the subsidy program and who needs a converter box.

Although we could obtain information from the majority of the stores that we visited and that were listed as participating in the subsidy program, in a few instances, we were not able to ask questions and observe whether the information provided was accurate. In two instances, there was no retailer at the store location listed as a participating retailer on NTIA's Web site (https://www.dtv2009.gov/VendorSearch.aspx). In another instance, the location listed was under construction and had not yet opened. In two additional instances, the locations listed were private residences—one was an in-home electronics store, and the other was a satellite television installer working from a house. We asked NTIA how it ensured the accuracy of the list of participating retailers on its Web site, and according to NTIA, ensuring the accuracy of the list is the responsibility of the

retailers. NTIA said it provides a list of locations to each retailer prior to placing the list on the Web site, and retailers can update addresses or add new listings as warranted.

Conclusions and Recommendation

NTIA estimates that it will see a large increase in the number of coupon requests in the first quarter of 2009 and our analysis confirms that, as the transition nears, a spike in coupon requests is likely. However, NTIA has not developed a plan for managing that potential spike or sustained increase in coupon demand. The time required for processing coupons has improved since consumers incurred significant wait times to receive their coupons at the beginning of the program, but until recently NTIA fell short of its requirement for processing coupons within 10 to 15 days. Given the relatively low participation rates to date and the amount of time it took to process the spike in coupon requests in the early days of the program, NTIA's ability to handle volatility in coupon demand without a plan is uncertain. Consequently, consumers face potential risks that they might not receive their coupons before the transition and might lose their television service.

To help NTIA prepare for a potential increase in demand for converter box coupons and so that consumers are not left waiting a lengthy amount of time for requested coupons, the report we are releasing today recommends that the Secretary of Commerce direct the Administrator of the NTIA to develop a plan to manage volatility in coupon requests so that coupons will be processed and mailed within 10-15 days from the day the coupon applications are approved, per NTIA's stated requirement.

In reviewing a draft of the report, the Department of Commerce (which contains NTIA) did not state whether it agreed or disagreed with our recommendation, but did say the Department shares our concern about an increase in coupon demand as the transition nears. Further, its letter stated it is committed to doing all that it can within its statutory authority and existing resources to ensure that all Americans are ready for the DTV transition. In its letter, FCC noted consumer outreach efforts it has taken related to the DTV transition.

Mr. Chairman, this concludes my prepared statement. I would be happy to respond to any questions you or other Members of the Subcommittee may have at this time.

GAO Contact and Staff Acknowledgments

For further information about this testimony, please contact Mark L. Goldstein at (202) 512-2834. Individuals making key contributions to this testimony included Colin Fallon, Simon Galed, Eric Hudson, Bert Japikse, Aaron Kaminsky, Sally Moino, Michael Pose, and Andrew Stavisky.

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Mr. MARKEY. Thank you, Mr. Goldstein, very much. The chair recognizes himself for a round of questions. Chairman Martin, given the problems that many Wilmington consumers had at home in hooking up their converter boxes, would you support more so-called soft tests in which they replace programming on their analog signal with information on the transition?

Mr. MARTIN. Oh, sure. I think that trying to implement soft tests throughout the country is a good idea. Recently I announced that the Commission was going to undertake an effort to try to target our resources on educating consumers and those at-risk markets, some 81 markets in which you have a high percentage of over-the-air population. One of the things we are trying to do is coordinate with the broadcasters to encourage them to have a soft test during our visits to those markets.

Mr. MARKEY. For every broadcast to have that kind of——

Mr. MARTIN. Yes, we are trying to actually encourage them to, absolutely.

Mr. MARKEY. I think that is very important.

Mr. MARTIN. One of the things that we did learn in Wilmington and the broadcasters actually have already come back and informed us that the soft tests need to last for a significant amount of time. They first ran the soft test for 30 seconds and minute, and they discovered that that wasn't getting any kind of consumer response. Consumers weren't able to go turn on the other televisions in their home to see if it was actually connected and they came back and ran one for 5 minutes the week before and that was the only one that actually received a significant number of consumers calling in. One of their recommendations to us has been to get all of the broadcasters to run soft tests for at least 5 minutes.

Mr. MARKEY. Well, let us have all the broadcasters do that then in the near future so that they can each learn from that experience. Would you support at least one station in each market continuing an analog feed after the shut off again with such information on the screen?

Mr. MARTIN. With the scroll like we have done down in Wilmington, listen, I think that would be helpful from the consumer standpoint but I think that we are limited by the law that requires broadcasters to turn off their analog signals on February 17, but I think it would be helpful for us to find a way to allow for the broadcasters to inform viewers for a short amount of time afterwards.

Mr. MARKEY. How do we get more consumers to hook up and try their converter boxes prior to February 17 so that we don't have chaos on that day for the help lines with everyone waiting until the end?

Mr. MARTIN. Well, I think one of the both challenges and lessons learned from Wilmington was the problems people had just in turning on their converter boxes and making sure they were scanning for channels, so we need to incorporate into our education materials across the country the fact that they do need to go on and hook it up and try to scan and look for those channels early on so we will be able to make sure that they are prepared. The good news is those problems were relatively easily solved, but they are

going to need to be incorporated into education materials going forward.

Mr. MARKEY. So I want to commend you for your call to retailers to stock more $40 analog pass-through boxes, ensuring that low income consumers can take their $40 coupon and get inexpensive boxes vital for certain households to make this transition successful. I hope that the retailers respond favorably because they will be basically on the hot seat and people are going into these stores across the country and those boxes are not available. Do you know how many stations nationally, Mr. Chairman, will shrink their coverage area when they switch?

Mr. MARTIN. Well, the question is, how many of them will significantly shrink their coverage area like what occurred in the one channel in Wilmington? The engineers have gone back through and they are trying to estimate it. They estimate that somewhere in the neighborhood of around 15 percent of the markets may have a station that will shrink in some significant way. What we are needing to do is go back and analyze how we can go in and fill in those coverage areas through one of several different mechanisms. We are basically looking at putting some other kind of antenna out there to make sure coverage is still going to those people that don't have any kind of a signal.

Mr. MARKEY. How long will it take for us to complete that process?

Mr. MARTIN. I have told our engineering staff that is the highest priority and really the number one lesson learned from the Wilmington experience because we need to make sure that we are working and coordinating with those broadcasters to address this problem, so I think it is going to take us a few weeks to identify what all those markets are and what we can actually do on a case-by-case basis.

Mr. MARKEY. Again, it is very important for that to be completed very soon so that those stations can currently communicate with their consumers that they won't be receiving that signal anymore and that that will be something that can be compensated for in some fashion either by that station or by something coming out of another market. Assistant Secretary Baker, the GAO today states that NTIA has no specific plans to address the expected surge in demand for coupons. Often it takes up to 15 days or more for consumers to receive coupons once they order them. With an increase in demand over the end of year holidays and as we near February, we need a specific plan to get this surge of applications processed and consumers out the door quickly so that consumers don't wait a significant amount of time. Will you give us a plan in writing within 30 days NTIA's plan for dealing with the surge in applications?

Ms. BAKER. Yes, sir, but our plan is the legislative package that we have submitted to you this week. I think that that is an accounting for what we see as an important uptick in requests in the coming months. We would like to see that uptick in November and December like it was in Wilmington, a nice steady bell curve where it decreases in January and February so we continue our consumer education to——

Mr. MARKEY. So your plan is more money. Is there anything else in addition to more money?

Ms. BAKER. Well, we have looked at several different things, including downloadable coupons. Also we have had looked at a rebate program.

Mr. MARKEY. If you could, put it all in a plan for us. Get it to us in 30 days. I understand you want more money but we want to see a whole plan. We want to see the concept and then we want to see the execution. OK?

Ms. BAKER. Happy to do so.

Mr. MARKEY. Concept is 20 percent, execution is 80 percent, so we would like to see what your plan is for the execution of this because that ultimately is the test. And Chairman Dingell and I wrote to you yesterday about additional funding you have requested for administrative expenses to implement the coupon program. Could we also get a timely response to that as well because time is short?

Ms. BAKER. Absolutely.

Mr. MARKEY. Could you respond to us in 48 hours on that?

Ms. BAKER. We can—I hope that I can get it cleared in 48 hours. I will do my very best. They should be drafting the answers right now.

Mr. MARKEY. We are adjourning for the year next Friday so time is of the essence.

Ms. BAKER. Yes, sir.

Mr. MARKEY. Please try to respond as quickly as possible. The chair's time has expired. I recognize the ranking member of the committee, the gentleman from Florida, Mr. Stearns.

Mr. STEARNS. Just a question, Mr. Chairman. You want it in 48 hours and we are not—we are going to be here all next week. Is it possible if she runs into a very difficult situation she might have a forbearance here?

Mr. MARKEY. We can't forebear on legislating the solution. If she gets us the information by the end of the week, we will be in a position to be able to evaluate it to make a determination as to what form of any legislation that is being considered would take. We are hearing complaints today about the legislative process so we are just trying to make sure that we don't hear the same complaint from your side.

Mr. STEARNS. Well, I saw how quickly you folks turned around an energy bill, and so I just wondered here. Chairman Martin, let me ask you a question. After the transition in Wilmington occurred, I was told you got about 797 calls the first day. Is that approximately correct?

Mr. MARTIN. That is right.

Mr. STEARNS. And the second day you got maybe 200 calls?

Mr. MARTIN. No, it was a little more than that. It was about half. It decreased by about 50 percent every day.

Mr. STEARNS. OK. After 5 days, what was the total number of calls?

Mr. MARTIN. On the fifth—our total of calls was 1,800 calls.

Mr. STEARNS. 1,800 calls. So that would roughly be maybe the first day was a half of 1 percent so it might be less than 1 percent.

Mr. MARTIN. In total it was about—yes, it was around 1 percent of the total households.

Mr. STEARNS. OK. So eventually 99.9 percent people were happy and they didn't call, 1 percent called. Now if you extrapolate that for a national that is still very successful, it seems to me. Now I admit if you are one of those 1 percent that did not get your channel and you are upset, you obviously have to get some satisfaction. Do you think you could make a confident statement that this roughly 1 percent that were questioning, you will be able to bring that down significantly by February 17, 2009?

Mr. MARTIN. We are certainly trying to work through everything we can to try to bring that—continue to bring that 1 percent down. I mean as you said 99 percent is a very high number but on the other hand 1 percent when you extrapolate around the country is a lot of people and we are trying to focus on how we can continue to bring that down. And I think that there are some things that we can end up doing. One of the simple things is trying to educate people about how the converter boxes actually work. A significant number of the calls were people just not understanding how to actually connect it to the television and to have it scan.

Mr. STEARNS. But most likely you will bring it down to maybe a half a percent instead of 1 percent?

Mr. MARTIN. Certainly the——

Mr. STEARNS. If this is the first transition, you are going to make all these new steps. You have the rest of September, October, November, December, January. You have 5½ months to decide and do this. I think the American people and my colleagues should realize this has been a pretty dramatic success and you should be proud of it. And I think——

Mr. MARTIN. Well, I appreciate it.

Mr. STEARNS. And the NTIA should be proud too. The chairman talks about chaos. I don't know if chaos when you have something that is 99.9 percent working is chaos.

Mr. MARTIN. No, sir.

Mr. STEARNS. So I just want to clarify that.

Mr. MARTIN. Well, I appreciate it, and I certainly appreciate that, and thank really the folks in Wilmington for their efforts and the community in helping make sure that the word got out.

Mr. STEARNS. Had you thought about another demonstration maybe in November after the election? It might be another chance for you to kick it up a notch.

Mr. MARTIN. We have, and we would like to. We haven't been able to find another market that will volunteer but if we can find another market that will volunteer.

Mr. STEARNS . I volunteered Jacksonville but Jacksonville didn't seem to—Jacksonville, Florida didn't seem to volunteer back.

Mr. MARTIN. We did contact them and several other markets and we still are looking for a volunteer.

Mr. STEARNS. Have you contacted Gainesville, Florida, where the University of Florida is?

Mr. MARTIN. We have contacted the Florida Association of Broadcasters after our last hearing and we did talk to them and had them contact all the markets to see if any were willing to.

Mr. STEARNS. And no one, yes. Assistant Secretary Baker, you are asking for an additional $7 million because of the statutory cap on administrative funds. Let me ask you, don't you expect to give back some of the $1.5 billion that we have given to you? Can you explain to us and remind us how much you are giving back?

Ms. BAKER. Well, as of now with the 50 percent redemption rates, we estimate that we will return $330 million back to the U.S. Treasury.

Mr. STEARNS. So $330 million back to the U.S. Treasury you are going to give us, so that means that you will use roughly 1.170 billion, so that is a pretty impressive figure that you are going to give back $330 million considering at one time Congress wanted $5 billion to do this program and a lot of us argued on this side we didn't need 5, we didn't need 4, we didn't need 3, we didn't need 2, we didn't need 1. We could get by with 900 million, and you are almost at the figure. Now is it possible that you might not need this 7 million? How confident do you think you are going to need this?

Ms. BAKER. Well, there is just no certainty to this so from our best data estimates we think that we might need it so we think it is prudent to ask for it since this is our last chance.

Mr. STEARNS. And funds are not fundable that you can't—just because we administratively legislatively said you can't do it, it is not fundable, that you could take 7 million out of 330 million that you are refunding to us, you couldn't use that?

Ms. BAKER. We have a statutory administrative cap at 160. We have the funds in the coupon money. We have also submitted several other programs that were under the Digital Television and Public Safety Act where we could come up with the money so there are several places where we could come up with the money. At this point, we are looking for 7 million. We would like flexibility for a couple million more if our estimates are not correct but certainly we can get the money in a couple different pools.

Mr. STEARNS. This is the last question, Mr. Chairman. Is it possible you will give back more than $330 million in refund to the taxpayers?

Ms. BAKER. Depending on redemption rates, sure, and demand.

Mr. STEARNS. OK. Thank you, Mr. Chairman.

Mr. MARKEY. The chair thanks the gentleman. The chair now recognizes the gentleman from Texas, Mr. Gonzalez, for 8 minutes.

Mr. GONZALEZ. Thank you very much, Mr. Chairman. And I guess I need a little clarification. You weren't here for some of the earlier remarks by the members on the other side of the aisle which dwelled on the energy bill that is coming up so I guess I need some sort of clarification. The title today is "Status of the DTV Transition: 154 Days and Counting." I am wondering what the D stands for. Is that digital or drilling? I am not real sure. The other thing is I am from the State of Texas and to be quite honest with you, we believe that every broadcast tower out there, if it doesn't double as an oil rig it is a waste of space. But I am also cognizant that maybe my narrow view of the energy needs of this country and how we meet them isn't the comprehensive approach that we really need, which is what we will have on the floor and hopefully my colleagues will have an open mind and proceed accordingly.

We will get back to the subject matter. Chairman Martin, thank you for your service. I know there have been many, many challenges and this is going to be one of them. I have a couple of questions, and I think the next panel probably will give us a feel for what is going on the ground. As Members of Congress, we go back home and get a sense of it. In your own individual capacity, I am not real sure that you are there in those communities, but I think we are going to have those representatives, so I am going to kind of stick to kind of general policy considerations. What hinders and what benefits? What encourages and what discourages? And it was brought to my attention some time ago, and we are trying to address it because I think it does have an impact, and that is the 5 percent tariff or import tax that is being levied by customs on these particular converter boxes, and in your opinion again does that lower cost or does it increase cost to the consumer?

Mr. MARTIN. Any kind of a tax assessment is going to increase the overall cost of it for the ultimate consumer.

Mr. GONZALEZ. Does it encourage or discourage adequate supply of the converter boxes?

Mr. MARTIN. Well, I am always hesitant at any kind of a tax or fee assessment on any kind of a consumer product. That will always have the effect of increasing the cost to the consumer and therefore decreasing the demand and ultimately the supply.

Mr. GONZALEZ. And I appreciate that, and of course since I agree with you I think it is a brilliant answer. I want to talk about the quiet period. That can be very controversial. We have something going on even in my city right now between broadcaster and the cable provider. This quiet period, and I know that we have depending on what side of the argument you might be on and also even what is coming out of the FCC as to what would be—if we have this quiet period what would be this time period? Does it make more sense to have the quiet period closer to the transition date of February 17, 2009, and shortly thereafter rather than way, way before and expiring before the operational date?

Mr. MARTIN. Sure. I think it is critical that it occurs right around the February 17 transition date for some period of time shortly before and for some period of time shortly thereafter so that there is no confusion from the consumer perspective that if they lost any kind of a signal that it wasn't because of the transition but rather because of any negotiations that were going on so I think it has to be centered around the transition date.

Mr. GONZALEZ. I think we will have testimony about why people believe a certain period before or after or maybe not even after might be best, but I tend to agree with your analysis. If we are really addressing the problem of what is causing or constituting the confusion and we don't—that is the end game here. It is not really to give advantage to any particular stakeholder. Secretary Baker, on re-issuance the numbers are fairly extreme, are they not, for those that have actually applied and received their coupons but have not redeemed them?

Ms. BAKER. I would say it is our top complaint is that the coupons have an expiration date and that coupons are lost or stolen or they have not been received in the mail.

Mr. GONZALEZ. And I have also received some other, I think, answers. Simply people get them, hold them, then they decide to get cable or buy a new TV. That could be part of it too. I am afraid that may not be the majority of those unredeemed coupons. I know that I have had town hall meetings where people show up with two of the coupons and they just say we didn't redeem them, what can I do? I don't have a really good answer but I don't believe that you are going to provide me with an answer.

Ms. BAKER. Well, the answer that I give to you is the one that we give to folks is that we made these coupons transferable, and I am sympathetic with the problem but what we need here is a groundswell effort of family and friends and civic organizations to help people make the transition. Yes, their coupon has been redeemed but I could give them my two coupons and so that does seem to provide some solace to the fact that these coupons have expired.

Mr. GONZALEZ. All right, and that may be one approach. It is kind of a practical way we can pull this off if we get the right people connected with the right people, but as far as anything that you may be coming up with in the way of policy or requesting rule changing your testimony or your written testimony indicates timelines don't allow it, is that correct?

Ms. BAKER. I think, first of all, the statute does not allow it so I think it would take a statutory fix. I think then we would have to have a rule change which has proven to be quite—even on an expedited basis for the nursing homes and P.O. Boxes has taken a good period of time. I think from a policy standpoint, I worry about the waste, fraud, and abuse of opening it up for re-issuance, but most importantly I guess from where I sit is I think it would throw whatever economic analysis we have about what coupons we have and need—I think it would throw it out the window, so I think there is fairness. There is waste, fraud, and abuse. There is timeliness. But most important, I think then we would just really have no idea how many people whose coupons had expired would come back and ask for more coupons.

Mr. GONZALEZ. And I know this is the sixth hearing, and I want to commend the chairman for being so vigilant, and I know that we are going to have some additional hearings before that February date and we will just keep our hands on that pulse. Mr. Goldstein—and I don't want to misinterpret what my colleague, Mr. Stearns, may have indicated about the success at this point. It is way too early to gauge how successful we are. Isn't that an accurate statement? I mean as we get closer to it, we have high rates of individuals not redeeming coupons. We have individuals that may be getting those converter boxes, not hooking them up to the last minute, then we find out as in Wilmington or maybe I know that in my town the questions of individuals just having difficulty hooking up the converter boxes and who do we get to assist. When will the jury be in?

Mr. GOLDSTEIN. I think the jury won't be in for some time at some period after February 17. I would mention a couple things real quickly. I think we have had a lot of success in reaching out. I think the private sector and the FCC and NTA should be commended for the work they have done in reaching out to the public.

I think they have done quite a good job, but it is an extremely difficult task and there are a lot of moving parts here. Some of the issues that have been raised in Wilmington quite candidly are things that we raised in reports over the last year including coverage area gaps, antenna issues, hook-up issues that would be—we said a long time ago these things would likely be problems and sure they are. They are surfacing now. We have see them in Wilmington.

The other thing I would add is we are concerned particularly about expiration rates that we have seen so far. In the work that we did for this report we found that seniors, particularly the expiration rates in areas where there were 50 percent or more seniors in any particular zip code in the United States that that rate was 43.2 percent, where for the U.S. population it was 30.5 percent. And so there are some—and other groups as well for Latino and black groups. Many of the minority populations appear to still be at some disadvantage and we have a long way to go.

Mr. MARKEY. The gentleman's time has expired.

Mr. GONZALEZ. Thank you very much, Mr. Chairman.

Mr. MARKEY. The chair now recognizes Mr. Shimkus for 5 minutes.

Mr. SHIMKUS. Thank you, Mr. Chairman. As I said in my opening statement, I did take August break to really try to work this issue. And, Secretary Baker, I want to especially thank you for Brian Danza in the Chicago area who came down once or twice for us as went around the congressional district, and I have gotten great response from the constituents. And I do want to encourage again my colleagues to really be assertive as much as the broadcasters are working hard and the cable industry and the FCC and you. We could also through our office, through our web sites, through our newsletters, through all the above be very proactive. Chairman Martin, the calls that you received from Wilmington residents, how many was your staff able to handle over the phone?

Mr. MARTIN. We were able to handle almost 80 percent of the calls related to anything on the converter box. We actually think we will be able to handle even more of them, but 80 percent just on the phone initially, significantly less on the antenna, about 136 of 600 or so calls on the antenna side were able to handle, so a smaller percentage on that.

Mr. SHIMKUS. And as we talked in our conversation I think last week a lot of that was just encouraging the consumer to press the channel scan button.

Mr. MARTIN. That is right. A significant problem on the converter box program was just that the consumer actually had to push the—to restart it and have it scan for channels.

Mr. SHIMKUS. I am guilty of that too. Although it is on the box to do that. I mean if you just—and even in my discussion with constituents it is real easy, you get your box, you take the antenna, you plug it in, you take the digital receiver, plug it into the TV, but you got to press to scan the channels and things so probably a lot of those that you can resolve that.

Mr. MARTIN. Exactly. That was the single biggest thing that we were able to resolve for our consumers just when they called up and said that my box isn't working. I got it hooked up. First, is

checking the connections to make sure it was hooked up, walking them through that, and then just asking them to scan it.

Mr. SHIMKUS. Now going back to Secretary Baker, two of my town hall meetings, one was at a senior—both of them were at senior centers. One was in Olney, Illinois, the home of the white squirrels, and Galconda, this is in—we do have white squirrels in southern Illinois. And it is the southeastern part, really rural Illinois. At both times, not at my prompting but with the seniors at both events there were seniors there who already done this on their own and they were offering their excitement to the other residents about the digital transition. What can you report on consumer satisfaction that you have heard back?

Ms. BAKER. Well, we haven't had a single complaint on the box and so now that we have Wilmington, now that we have Wilmington we know that there are some problems with the scanning. We know that some people did not put batteries in the remote control, that they didn't realize the television had to stay on one channel, but as far as the box itself goes we have not had any complaints and people are really thrilled with the picture that they are receiving from the box.

Mr. SHIMKUS. How about any rate of returns of the receivers to the retailers?

Ms. BAKER. From what I know, which is only from the retailers which we stay in contact with, you know, all the time this is one of the lowest returned of consumer electronics products that they have ever had, that they see very little return.

Mr. SHIMKUS. Well, going back to these two small rural areas. As I mentioned, you do the application either by phone or the web. You get the letter. It has one or two cards. It gives you the retail locations but also what was emphasized by one of these ladies is just phone order and mail order of these receivers. Can you talk about phone and internet retailers instead of the traditional brick and mortar, because in rural America, especially with gas prices so high, they may not want to drive 50, 60, 70 miles to go to the retailer.

Ms. BAKER. I think you have hit a great issue that we need to process that we have 35 online retailers including Amazon.com now, and we have 13 phone retailers. I think what we are dealing with here is a population that gets in their car and they go to their favorite store, maybe Wal-Mart, and if Wal-Mart is out of boxes then they go back home and they get back in their car the next day and they go to the same Wal-Mart. We need to encourage people to think a little bit outside the box. We have 30,000 retail outlets as well as obviously the online and telephones. Radio Shack will mail the box to you for free. Best Buy, Circuit City, they all have phone operations that should be easy for this population who are not as technical to actually get the box.

Mr. SHIMKUS. Thank you, Mr. Chairman.

Mr. MARKEY. Thank the gentleman. The chair now recognizes the gentlewoman from California, Ms. Eshoo.

Ms. ESHOO. Thank you, Mr. Chairman. It is always nice to see you in the chair.

Mr. MARKEY. You too.

Ms. ESHOO. I have three questions, and I am going to put the questions out. They are all to Chairman Martin. And I will start with the first one. I understand you know how many people called the FCC's help line with questions about their converter boxes. Do you know how many people called a TV station with a question? How engaged, I guess it is a measurement of engagement.

Mr. MARTIN. The Elon University, a university in North Carolina, had volunteered some of their students to answer calls. The last estimate I had, they had several hundred calls. It was less than 300 calls. I think 260 some odd calls.

Ms. ESHOO. Not too many. Not too many. On this issue of a quiet period, I want to go back to this. I know Congressman Gonzalez mentioned it, and I did in my opening statement. I think it is important to know when this quiet period actually takes place because by all means we want to protect Chairman Markey's Patriots or Mr. Barton's Dallas Cowboys. Now the NAB has in its letter to you of August 11, proposed I think February 4 until March 4, a full 2 weeks prior to and after the transition date. There is a big thing that happens in January. It is the NFL playoffs. Can you imagine if this thing is dropped during the NFL playoffs? I mean there will be a revolution in the country. So I think that we have to look at this with a very practical pragmatic eye. So can you tell us what you are planning to do with a quiet period?

Mr. MARTIN. I had—there is an order——

Ms. ESHOO. When it would begin, when it would end.

Mr. MARTIN. There is an order in front of the commissioners that deals with some of the other minor issues surrounding the DTV transition. There are some more technical issues but I had proposed to the other commissioners that we consider implementing and having some kind of a requirement of a quiet period. I had had one that was slightly longer than the one that had been proposed by the NAB. It was approximately 3 weeks before the transition is what I had proposed.

Ms. ESHOO. So would it cover the playoffs?

Mr. MARTIN. I don't——

Ms. ESHOO. You know what, let me just put it this way. I think you have to keep that in mind. All right? Be on notice. And maybe no one thought of it but it is a big deal in the life of our country so I think that we should start sooner and stretch it out a little later, and as soon as you make a decision on that can you get back to us on it, and I think that you can make that decision pretty quickly. My third question is I am sure, Mr. Chairman, that you have seen the Reuters Cisco report which ranked our country, the United States of America, 16th in the world in broadband quality. Now I guess the good news is that we made it just ahead of Russia, but listen to who we are behind or who is ahead of us: Slovenia, Latvia, Lithuiana, Japan, Denmark, and Korea.

This is not a source of pride to us in our country. America really should be number one. We should. We know how. So my question to you is on surprise, the AWS-3 auction, I believe, I think you believe is an extraordinary opportunity for our country to dramatically shift access to the internet. Can you tell us when you think you are going to bring this up for a vote at the Commission?

Mr. MARTIN. Sure. I do agree with you on the importance of it and the importance of trying to utilize it to help bridge the broadband gap that we have in the country so I have encouraged it. I have put it up for a vote once already before the Commissioners. They wanted some more time. They asked me to go——

Ms. ESHOO. I know you are doing testing.

Mr. MARTIN [continuing]. And have some additional testing. We have now completed that testing. Just last week our engineers submitted the results of that testing into the record. We will allow some people to comment on those results, but I do anticipate being able to bring that back up in front of the other Commissioners. I will need the support of the other Commissioners but I will need to bring that back up. But I do need to wait for the testing results to be filed in the record and allow for people to file any comments they wanted on that.

Ms. ESHOO. Good. OK. I think that my time has just about expired, Mr. Chairman. Thank you. Thank you to all of the witnesses.

Mr. MARKEY. The chair thanks the gentlelady. The chair now recognizes the gentleman from Texas, Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman. And I appreciate I guess because of what is going on now, I do want to talk about both to our assistant secretary and our chair about the problem with the battery-operated converter boxes at our last hearing but we know now it is much more imperative. Without these, like I said earlier, I couldn't have had TV at my own house, and even as of yesterday when I left to come back how our agency is planning to address that and since we brought it up at an earlier meeting hopefully there has been some discussion.

Mr. MARTIN. That was one of the important issues that came up both at the earlier hearings and also in Wilmington it was one of the issues that was identified very early on by the broadcasters in Wilmington, the concern they had with it. Again, I think the importance of the test highlighted the issue and actually allowed for us to make some progress on it. The broadcasters there worked very closely with one of the manufacturers, Weingard, who makes converted boxes. They have developed a battery-operated pack that can attach to their converter box. It was for sale down in Wilmington before the transition. We have seen it. The Commissioners purchased both one of the converter boxes and the pack so that we can take that around and show people that this is—there is a battery-operated one to attach to battery-operated TVs and it is available now.

Mr. GREEN. And the rabbit ears typically, the battery-operated television, because that is the only thing we have.

Mr. MARTIN. It will work within a battery-operated television to provide signal the way the battery-operated television does in the analog world today, and it will have a battery-operated pack. It is a $12 pack you can attach to the converter box.

Mr. GREEN. OK. So that would work. It is pretty well universal, any type of small battery-operated television?

Mr. MARTIN. No, it doesn't work—the converter works with any battery-operated television. It would work with any of them. The challenge would end up being though that the pack doesn't attach to every converter box. There is only one converter box manufac-

turer that has developed that kind of a battery-operated pack. We are continuing to try to work with other manufacturers to see if they will develop a similar packet but that is the only one that we have today.

Mr. GREEN. I appreciate any update because we still have 2 months left of the hurricane season but if we don't do it now then next year we will really be in a problem. The digital cliff where the picture disappears on digital televisions rather than coming in snowy as it did on analog sets seems to be a problem that wasn't expected. Do you know of any smaller battery-operated televisions that would be more susceptible to this? Does severe weather affect that in our case?

Mr. MARTIN. Weather can affect any kind of a signal. It can, but that can always have some kind of an impact when there is severe weather. That can always have an impact on reception of over-the-air signals.

Mr. GREEN. OK. And would it take rulemaking or congressional action to allow consumers to use their coupons to purchase these battery powered devices for emergency use if they happened to have when they get two coupons instead of buying one converter box, would it also be available?

Mr. MARTIN. The coupons can currently be used for the converter box. The battery-operated pack is $12 you have to attach to it and the coupons can't be used for the pack. So under the NTIA rules it can only be used for the converter box itself.

Mr. GREEN. And I apologize for being in and out. One last question, Mr. Chairman, and I appreciate the—our problem is, and I think it was brought up in lots of the opening statements, in our district that people got their coupons or their little credit cards and they didn't pay attention to the expiration date. And I know we had a disabled constituent that we actually sent the letter from our own office. And what is the practice of NTIA on dealing with something like that?

Ms. BAKER. Well, unfortunately, we are not reissuing coupons. We have interpreted the statute to tell us that we cannot reissue coupons as well as we think that there is a waste, fraud, and abuse issue. There is a fairness issue. But we are doing exactly what you just said, and we are encouraging families and friends, neighbors, civic groups to help people make the transition since the coupons are transferable for someone whose coupon is expired to get the coupon from someone else.

Mr. GREEN. So if someone has an expired coupon, they can't apply for another one then?

Ms. BAKER. That is correct.

Mr. GREEN. OK. And I have to admit someone told one of my constituents just have somebody apply for one and then they could give it to you, and I questioned whether—I don't know the falsification or anything saying if I applied for something for my son or my daughter or even a neighbor and I gave it to them, that is not calling into question someone not using it for their own personal use?

Ms. BAKER. We have made them transferable to make sure that people could help other people in the transition, and if you had applied for one and you used one then you could apply for another. If you had applied for two and they had both expired then you

could not apply for another but we want to make this transition easier for people so we think if you can help your mother make the transition that is why we made the coupons transferable.

Mr. GREEN. Well, frankly, the best way to make it easier would be to let them reissue the coupons instead of having a friend or a family member do it. Mr. Chairman, I know I am out of time.

Mr. MARKEY. The gentleman's time has expired. The chair recognizes the gentlewoman from California, Ms. Solis.

Ms. SOLIS. Thank you, Mr. Chairman. I want to thank our witnesses for coming and speaking to us this morning. And I wanted to direct my first question to Assistant Secretary Baker and ask you a little more in depth about the outreach to the Latino community at large and especially along the U.S. border. The Transition Assistance Act which was recently signed into law according to your testimony there is approximately $4.5 million that will be available for consumer education. I would like to ask you how the NTIA plans to use this funding and what proportion will be used to educate those Latino or Spanish-speaking recipients or households along the U.S.-Mexican border but also in other parts of the U.S.

And I wanted to know more about how much money was going to be spent for that outreach effort. You mentioned I believe in your testimony that there is grassroots bid that is underlined or monies that will be available for community-based organizations. How are you selecting those and what will be their effort and how much money is actually being allocated for that?

Ms. BAKER. Well, in an effort to expedite this education process we are not doing a complete rulemaking. What we are doing is taking unsolicited bids of which we have several before us currently. We are looking at the underserved communities, the minorities, as well as actually having transition help, having people go into houses and help them hook up converter boxes so those are kind of our priorities as we see it.

Ms. SOLIS. Will you have some of those individuals that will be able to speak Spanish or other languages as necessary?

Ms. BAKER. Absolutely. That is one of the communities that is valuable for us to provide extra assistance to.

Ms. SOLIS. When is this going to roll-out?

Ms. BAKER. We are hoping the first of October the first of the grants will go out.

Ms. SOLIS. And how many of those groups will be focusing in on the Spanish-speaking population?

Ms. BAKER. Well, it does depend on what the proposals that we receive have and I think at this point that the——

Ms. SOLIS. So there is really no correlation between the need or you are just looking at whoever bids?

Ms. BAKER. Well, we need proposals in front of us to be able to expedite so instead of running a full rulemaking as to how we would get the grants out which would be after the transition what we are doing is taking proposals——

Ms. SOLIS. One concern I have is that you might give bids out to people who really don't understand or really are geographically more inclined to understand the demographics of particular areas or regions so that is something that I would draw your attention

to. Obviously, Californians, Texans, Puerto Ricans, and what have you are a little bit different and I don't know one size always fits all so you might keep that in mind. I am also concerned regarding some of the information that has come back to us about how the converter box is actually—the coupon for the converter box is actually being utilized. And my question is with respect to what is happening in Puerto Rico, I have gotten a lot of complaints from people there that they have received the coupon but did not have the availability to go down and purchase at the local retail store so you obviously have a problem here, and I would like to hear your response.

Ms. BAKER. Sure. I think, first of all, absolutely taken into account as far as the LPTV $4.5 million grants, the Hispanic considerations as we do in our target markets. As far as Puerto Rico goes, it is a very unique community. I think it has the highest over-the-air population at 39 percent and we have now received coupon applications from 50 percent of the households there. I think that we heard that there was a shortage of converter boxes there. We have worked hard with the retailers to make sure that that has been—those shortages——

Ms. SOLIS. Apparently from a document I have here, a letter we sent to you, there was actually a request for 600,000 coupons but there were only 50,000 boxes that were available on the island. How do you bridge that gap? We are talking about a big problem here.

Ms. BAKER. Well, we have seen now strong redemption rates in Puerto Rico so we feel that those——

Ms. SOLIS. Are you working with the retailers?

Ms. BAKER. We have been working with the retailers.

Ms. SOLIS. Because we have gotten complaints as of late that we still have a big issue here, but not only that, it is also the implementation. I think the chairman, Mr. Markey, said that earlier. Eighty percent of our focus should be on how we actually get the box in the household and people need that instruction. They probably need someone beyond just giving them the coupon actually calling them back did you acquire the converter box, have you plugged it in, do you know where to get help and having that information available in Spanish, or whatever language it is going to take, and we are also talking about senior citizens and rural communities who may not be as literate.

Ms. BAKER. I think you are right and I think that our consumer education focus clearly needs to turn to implementation. That is why we changed our messages to apply by and try to make sure that the try part, that the converter boxes work, that people can get this assistance that they need, and we certainly realize that minority outreach in several different languages is important.

Ms. SOLIS. I am still a bit concerned. I heard some of our colleagues on the other side of the aisle say that they are very happy to hear that monies would be returned because they wouldn't be utilized because everything was going so efficiently. I would beg to differ with that and still would like to get more information about how demographic groups are going to be addressed, whether they are disabled, seniors, rural, and obviously, that are monolingual.

Mr. MARKEY. The gentlelady's time has expired. The chair now recognizes himself. I want to say at the outset that I think the test run in Wilmington was a great idea and I want to thank Chairman Martin and Administrative Baker for you and your staff's work in getting it together. I think it gives us all a much better picture of some of the challenges that we are going to face in February. And one of the things that I thought was really smart was that the branding was simple. I heard that they called it "The Big Switch" in Delaware and I think we need to think about that Nationwide, something that is a simple message and easy to convey to people. And I don't think we should rush into any definitive conclusions considering the amount of attention that has been paid to Wilmington. I think Commissioner Adelstein said that when you send out so many staff to a city and give it all this extra consideration that the observer effect starts to come into play, so I don't think we should rush to judgment on it.

But I do have a couple questions about it. Administrator Baker, I saw in your testimony on the last page at the very last line that you estimate only 60 percent of over-the-air consumers require a converter box, but in Wilmington we saw the participation rate at 203 percent, which is sort of double the estimate that we had gotten. What is your explanation for 203 percent participation rate?

Ms. BAKER. Well, I think that Wilmington was a compressed period of time. We announced in May that we were going to switch in September. I think if you are—for our switch on February 17 people are going to make different decisions. They are going to go through the holiday period. They might make other choices as to whether they are going to purchase a converter box with a coupon or not. I think, you know, when we look at the numbers that we project from Wilmington, we still find the same bucket needs to be filled, you know. It was quicker in Wilmington but the numbers are still kind of the same when we estimate our—I got several different estimates of data but when we separately make our estimates of the current request and then we bump it up for what we think is going to happen in November, December, and January, we come to the same number if you extrapolate the numbers from Wilmington, so I do think it is a valid test although I do think it was a compressed period of time.

Mr. MARKEY. But aren't you concerned that if your estimates sort of cuts the number in half and the actual data doubles your estimate and you start to apply that nationwide it sound like that we are sort of over estimating the number of people who won't need boxes, at least if Wilmington is any indication of that. Do you think people are hoarding boxes?

Ms. BAKER. I don't find—we have not heard of such a thing, no. We found very little of that—we have not heard any of that actually.

Mr. MARKEY. You can't reapply once your coupon expires and you are going to have bunch of people out there with coupons that if they are hoarding them that would be the only market for coupons. It sounds like a pretty good industry being developed for people selling their coupons that they don't need. I am just wondering if you are seeing any evidence of that going on as an explanation for why you have such a high participation rate.

Ms. BAKER. I guess a couple different things. The boxes are good now so we are hoping that people hook them up and use them now because digital programs exist now. While the coupons can be transferred and we encourage people to help their family and friends to transfer them, they can't be sold. We have had terrific experience with eBay and Craigslist. We have seen coupons appear and they get pulled immediately. So we really at this point have had very little of that type of incident.

Mr. MARKEY. Chairman Martin, I read accounts that the biggest problem wasn't that people weren't aware that the switch was coming. The biggest problem seemed to be that they didn't have a clue about how to get these converter boxes installed. I guess they thought they would set them on top of their TV sets and by osmosis or something they would connect themselves. And I see we are going to open up a new eligibility application for firefighters grants now where in addition to training and equipment, putting converter boxes together is going to be a way to get a firefighter grant.

I mean in Wilmington basically we asked the help of the firefighters to help people connect their boxes. Did we pay them for that? Did they do that for free?

Mr. MARTIN. We had very small contracts with several grassroots organizations to be able to go into people's homes who were disabled and were shut-ins and otherwise unable to get out and hook up the converter boxes for them and a special number people could call. The last estimates we heard as of last Monday there had only been about 35 people but as of today there has been about 250 people that local fire departments and local public safety officials have gone.

Mr. MARKEY. So is it the Commission's intention to contract with fire departments across the country come February to install people's converter boxes, and do you have the money to do that? What is the game plan for—it seems that one of the big missing pieces of this puzzle that we are learning from Wilmington is we need a lot more education for folks or a way to get assistance out to seniors and disabled and other folks that need help putting the converter boxes on.

Mr. MARTIN. Well, absolutely. We want to make sure as many people as possible understand how the converter boxes work and how to hook them up and how to scan, but we actually are trying to—we put out a bid for other grassroots organizations to be able to come forward and do the same thing that we did in Wilmington. We put out a bid for grassroots groups to come forward and say they could do the same thing for shut-ins and other people that are disabled that can't get out and hook up their boxes that we would try to do that at least in those 81 markets that we are trying to target throughout the country, so we actually are trying to do that.

Mr. MARKEY. Thank you very much. I see my time has expired, and the chairman now yield to the gentlewoman from California, Ms. Harman.

Ms. HARMAN. Thank you, Mr. Chairman, and thank you to the subcommittee for holding yet another hearing on this important issue. I welcome the panel and I am going to use my few minutes just to make a couple of comments that won't surprise Chairman Martin at all. Number one, this transition matters. It matters to

a lot of people, especially the folks you, Mr. Chairman, were just discussing with Chairman Martin, but the reason for this transition to remind us all is to make available analog spectrum for critical emergency communications, which leads me to the D block auction. And I know, Mr. Chairman, that you are having a meeting on the 25th or I think that is still the case, which is next week, of your commission to see about auction rules. I want to urge you to get along with this and move on with this and to make sure that there is full public participation in the rulemaking. I think it is critical that we do this, we do it right, and we do it quickly. This is a set of comments you have heard me deliver many times.

Secondly, I think I spoke to you and I also have tried to follow up about the possibility of a regional hearing in southern California. It is not the only place that there should be such a hearing but I know there have been hearings in various parts of the East Coast. The reason I want to suggest that is, one, there is a emergency communications group out there that is keenly interested in this issue. LA County is the largest and most diverse county in America, and I think is proceeding on one path but maybe after such a hearing could think about some other directions. That is one point.

But my second point is with respect to the DTV transition there is a very large minority community out there. I represent many cities, and I know Ms. Solis does too, which are majority Latino and so far as I can tell some real progress is being made, so we might actually be able to tell a success story, for example, with respect to markets that at least Univision reaches. They claim they have a very good plan for this. So I want to repeat my invitation, give you a chance to respond in public to my invitation if you care to and to urge you again about moving quickly and with full participation on a set of auction rules that will be successful this time. And I just would invite your comments.

Mr. MARTIN. Sure. First, thank you for your support and for supporting the Commission going forward as quickly as possible. It does have to be an open process but it is time for us to go on and put out a further notice because we still need to go through that public process before we move to a final order. At this stage even on an expedited basis you are talking about an order not being able to get out until around the end of the year, which would still mean an auction couldn't even occur until some time after about 6 months. So this is really critical for us to move forward, and I appreciate that support and I think it is time for the Commission to—and we actually am happy to and would like to end up going out to southern California to end up participating in the hearing.

We have been working with your staff on some dates that would make sense from your perspective. One of the original time frames you and I talked about on the phone was this week. With this hearing, that didn't work out as well. But we are actually looking at further dates that we can come out there.

Ms. HARMAN. Well, I appreciate that. I would just point out the obvious, which is that even on your time table the auction will not be completed before the transition is completed. I would not only note major natural disasters which have been occurring with regularity along the southern coast of America but my continued fear

that there may be some unnatural man-made terrorist attacks that could still come our way, and we don't have a day to waste before putting in place a robust national interoperability capability for emergency communications. And at least I don't understand how that happens if we don't have either one national or several appropriate regional auctions and develop this public-private idea that we have been talking about for a long time where the private sector lends its enormous capability to build out for the public sector a capability way beyond push to talk radios that it can grow into over time and that will give it on U.S. battlefields the same capability or better that we have on foreign battlefields for our U.S. soldiers. America is a battlefield as well both against nature and against terrorist attacks.

So I will continue to ask the same questions to all of you until we get to the right place. And I have 3 seconds, but if anyone has any additional comments, I am sure the chairman would let you speak. Thank you, Mr. Chairman.

Mr. MARKEY. The chair thanks the gentlelady. There being no further questions from members, the chair would like to thank this panel for being here, and we are going to get ready to seat the second panel. Thank you so much. OK. We are going to get started. We want to welcome our second panel. We are going to go right down in order. Our first speaker will be Mr. Tom Romeo. Mr. Romeo is currently Vice President of Federal Services for IBM where he is responsible for managing IBM's business with numerous federal agencies. Most importantly, he is responsible for managing IBM's contract with NTIA to run the converter box coupon program. Mr. Romeo, welcome, and turn your microphone on and you have 5 minutes for your opening statement.

STATEMENT OF TOM ROMEO, DIRECTOR, FEDERAL SERVICES, GLOBAL BUSINESS SERVICE, IBM CORPORATION

Mr. ROMEO. Thank you, Mr. Chairman. Mr. Chairman and members of the subcommittee, thank you for the opportunity to testify before you today on the continuing progress the IBM team is making implementing the NTIA TV converter box coupon program. Earlier this morning, you heard from NTIA Acting Assistant Secretary Baker about how interest in the TV converter box coupon program continues to grow. Consumer demand for coupon remains high with over 26 million total coupons ordered as of September 10, representing an average of more than three million coupons ordered on a monthly basis. The continued high rate of demand is exceeding expectations. Consumers requested the total initial base phase allotment of 22,250,000 coupons as of July 31, 2008.

After hitting this milestone, the coupon program shifted to a two-track distribution mode. The program now ships both contingent phase coupons which go only to over-the-air reliant households, as well as recycled initial base phase coupons. Because the redemption rate for coupons remains below 100 percent, funds continue to be available to recycle coupons from the initial base phase of the program. This allows households not solely reliant on over-the-air broadcasting to continue to request and received coupons. Between August 1 and September 10 over two million recycled coupons were

ordered. During this same time frame, over two million contingent phase coupons were ordered.

The unique and fluid nature of the coupon program continues to require our team to react quickly to pinpoint needed adjustments and implement alternative solutions when necessary along the way. When Wilmington, North Carolina was designated as a test market for the DTV transition, we were able to expedite updates to the web site providing information specifically tailored to consumers in Wilmington. We refined consumer education targeted for the Wilmington market, resulting in over 70,000 coupons ordered by Wilmington residents.

We continue to refine the Interactive Voice Response or IVR system to make it easier and faster for callers to order their coupons over the phone. A new IVR script implemented in July increased by 15 percent the number of callers able to complete their coupon order within the IVR system. Overall, the IVR system is able to support 60 to 65 percent of the callers without the need for a live agent, a very high IVR resolution rate by industry standards. We continue to adjust messaging on both the English and Spanish IVR system to expedite the coupon ordering process and provide a positive experience for the consumer.

I am pleased to report the voluntary participation of both large national retailers and smaller, local retailers remains strong. As of August 29, 2008, more than 2,300 retailers, representing more than 29,000 stores Nationwide, are currently certified and participating in the program. Eight of the largest consumer electronics retailers are among the retailers participating in the coupon program. Consumers are also able to order converter boxes from 35 online retailers or from any of the 13 retailers offering a phone order option. Amazon.com became a participating online retailer earlier this month. The strong demand for coupons indicates the effectiveness of our consumer education strategy. We are on the right track educating consumers about the coupon program and remain focused on intensifying and further refining consumer education as we end towards February, 2009.

Our partner, Ketchum Public Affairs, continues to lead the consumer education effort focusing on communities most likely to rely more heavily on over-the-air broadcasting than the general population but continuing to build and leverage a network of committed partners. The proportion of households ordering coupons who self identify as over-the-air reliant has increased from 47 percent in January to 55 percent today. The consumer education campaign is increasing its reach to those consumers most at risk as we transition to digital broadcasting.

We are now refining coupon program messaging to encourage consumers to act early in the process and order their coupons prior to December 31, 2008. Today, a consumer can expect to have their coupon order processed and mailed within 10 to 15 days, and to receive their coupon within 3 to 4 weeks of placing their order. Ordering coupons prior to the end of 2008 will give consumers enough time to buy a converter box, install it, and troubleshoot any issues before February 17, 2009. The IBM team is pleased to be part of implementing this vital program and recognizes that many challenges remain on the way to February 17, 2009. Our team con-

tinues to be ready to meet those challenges and work to ensure that consumers across the United States have continued access to free television broadcasting, including educational, entertainment, emergency and home-land security information. Thank you for the opportunity to testify today, and I will be happy to answer any questions.

[The prepared statement of Mr. Romeo follows:]

STATEMENT OF TOM ROMEO

Mr. Chairman and Members of the Subcommittee, thank you for this opportunity to testify before you again on the status of the DTV Transition. My name is Tom Romeo and I am Vice President of Federal Services for IBM's Global Business Services, Public Sector. I am here today to update you on the progress the IBM Team is making implementing the National Telecommunications and Information Administration (NTIA) TV Converter Box Coupon Program.

BACKGROUND

The Coupon Program, authorized by the Digital Television Transition and Public Safety Act of 2005, provides for distribution and redemption of coupons that consumers may apply toward the purchase of certified digital-to-analog converter boxes from participating retailers. As you know, this act allows U.S. households to request a maximum of two coupons, worth $40 each, to be used toward the purchase of a certified converter box.

NTIA awarded IBM the contract to provide services for the TV Converter Box Coupon Program on August, 15, 2007. Working within the program parameters, IBM designed the NTIA TV Converter Box Coupon Program to be consumer-focused, easy to use, and provide maximum choice and access for both consumers and retailers. IBM and its business partners, Ketchum Public Affairs, Epiq Systems and Corporate Lodging Consultants are providing services in four areas:

- Consumer education
- Coupon distribution to consumers and redemption
- Support for retail store participation
- Financial processing to reimburse retailers, and to maintain records.

Ensuring high retailer participation and satisfaction are essential elements to the overall success of the program. Our goal continues to be to successfully communicate the details of the TV Converter Box Coupon Program to targeted consumers, distribute coupons, and complete the redemption process efficiently.

PROGRAM METRICS AND STATUS

On January 1, 2008 the Consumer Support Center opened for business and began to take orders from consumers across the nation for their TV Converter Box Coupons. Consumers continue to be able to order coupons using any of the four available options. Applying online at www.DTV2009.gov continues to be the option used most frequently by consumers. Other options include the toll-free phone number (1-888-DTV-2009) which is operational 24x7 to accept coupon orders, and by mail (P.O. Box 2000, Portland, OR 97208-2000) or via fax (1-888-DTV-4ME2). Coupon application forms are also available in Braille for the visually impaired.

As we reported to you in June, interest in the TV Converter Box Coupon Program continues to grow. Consumer demand for coupons remains high with over 26,686,001 total coupons ordered as of September 10 representing an average of more than 3,000,000 coupons ordered on a monthly basis.

The continued high rate of demand is exceeding expectations. Consumers requested the total initial base phase allotment of 22,250,000 coupons as of July 31, 2008. After hitting this milestone, the Coupon Program shifted to a two-track distribution mode. The Program now ships both contingent phase coupons which go only to over-the-air reliant households, as well as "recycled" initial base phase coupons. Because the redemption rate for coupons remains below 100%, funds continue to be available to recycle coupons from the initial base phase of the program. This allows households not solely reliant on over-the-air broadcasting to continue to request and receive coupons. Between August 1 and September 10 a total of 2,020,219 "recycled" coupons were ordered. During this same time frame, 2,415,782 contingent phase coupons were ordered. At the current rate of demand, and assuming some spike in demand as we move closer to the actual transition date of February 17,

2009, we anticipate over 50,000,000 coupons will have been mailed out to consumers by the end of the program.

The unique and fluid nature of the Coupon Program continues to require our team to react quickly to pinpoint needed adjustments and implement alternative solutions when necessary along the way. When Wilmington, North Carolina was designated as a test market for the DTV transition, we were able to expedite updates to the web site providing information specifically tailored to consumers in Wilmington. We refined consumer education targeted for the Wilmington market resulting in over 70,000 coupons ordered by Wilmington residents.

We continue to refine the Interactive Voice Response (IVR) system to make it easier and faster for callers to order their coupons over the phone. A new IVR script implemented in July increased by 15% the number of callers able to complete their coupon order within the IVR system. Overall, the IVR system is able to support 60-65% of the callers without the need for a live agent, a very high IVR resolution rate by industry standards.

We continue to adjust messaging on both the English and Spanish IVR system to expedite the coupon ordering process, and provide a positive experience for the consumer.

RETAIL PARTICIPATION

I am pleased to report the voluntary participation of both large national retailers and smaller, local retailers remains strong. As of August 29, 2008 a total of 2,316 retailers representing more than 29,053 stores nationwide are currently certified and participating in the program. Eight of the largest consumer electronics retailers—Best Buy, Circuit City, Fry's, Radio Shack, Sears, Sam's Club, Target, and Wal-Mart are among the retailers participating in the Coupon Program. This includes locations in all 50 states, Guam, Puerto Rico, and the U.S. Virgin Islands. These stores have completed certification in the Coupon Program, indicated that their employees are trained, have converter box inventory in their stores, and have their point-of-sale systems prepared to redeem coupons. Consumers are also able to order converter boxes from 35 online retailers, or from any of the 13 retailers offering a phone order option. Amazon.com became a participating online retailer earlier this month. A list of all participating retail outlets, searchable by state and 5-digit zip code, can be found on www.DTV2009.gov under "Locate a Retailer Near You."

CONSUMER EDUCATION

The strong demand for coupons indicates the effectiveness of our consumer education strategy. We are on the right track educating consumers about the Coupon Program, and remain focused on intensifying and further refining consumer education as we head toward February 2009. Our partner, Ketchum Public Affairs, continues to lead the consumer education effort focused on the five communities who most likely rely more heavily on over-the-air broadcasting than the general population: 1) senior and older Americans; 2) the economically disadvantaged; 3) rural residents; 4) people with disabilities; and 5) minorities. We continue to build and leverage a network of committed partners who already have access to many of the population segments we are targeting, and currently work with over 300 public and private sector partners with ties to senior citizen, rural and disability communities. The Partnership Toolkit which includes DTV and Coupon Program background material, fact sheets, posters, sample public service announcements, and presentations is co-branded for use by partners at a variety of events. Also included and used by our partners are specific strategies on how to reach the media to effectively deliver the Coupon Program message, and ideas and resources for informing consumers through community and in-store events. In addition, our work with the media to place stories about the Coupon Program is heavily focused not only on national media, but also the television markets that have the largest estimated number and percentage of over-the-air reliant households.

The proportion of households ordering coupons who self-identify as over-the-air reliant has increased from 47% in January to 55% today. The consumer education campaign is increasing its reach to those consumers most at risk as we transition to digital broadcasting.

We are now refining Coupon Program messaging to encourage consumers to act early in the process and order their coupons prior to December 31, 2008. Today, a consumer can expect to have their coupon order processed and mailed within 10–15 days, and to receive their coupon within 3–4 weeks of placing their order. Ordering coupons prior to the end of 2008 will give consumers enough time to buy a converter box, install it, and trouble shoot any issues before February 17, 2009.

CONCLUSION

As mentioned above, educating consumers to take action and order coupons before the end of 2008 is a high priority for the Program and an important component to a smooth transition overall. The majority of consumer messaging is focused on making sure consumers understand the transition to digital broadcasting will occur on February 17, 2009. Consumers who wait until February 17 or after that date to request their coupons may not realize that it will take several weeks for their coupons to arrive by mail. In light of these sobering scenarios, we are working with our partners to adjust public messaging to encourage consumers to act well in advance of the February 17 transition date.

The IBM Team is pleased to be part of implementing this vital program and recognizes that many challenges remain on the way to February 17, 2009. Our team continues to be ready to meet those challenges and work to ensure that consumers across the United States have continued access to free television broadcasting, including educational, entertainment, emergency and homeland-security information.

Thank you for the opportunity to testify today and I will be happy to answer any questions.

Ms. HARMAN [presiding]. Thank you. The Committee now welcomes Christopher A. McLean, who is the Executive Director of the Consumer Electronics Retailers Coalition of the Nation's largest electronic retailers. Mr. McLean has also served as the Administrator of the Rural Utility Service. Please summarize your testimony in 5 minutes and begin now.

STATEMENT OF CHRISTOPHER A. MCLEAN, EXECUTIVE DIRECTOR, CONSUMER ELECTRONICS RETAILERS COALITION

Mr. MCLEAN. Thank you very much. Thank you for inviting the Consumer Electronics Retailers Coalition to appear today. Our members include Best Buy, Circuit City, Radio Shack, Amazon.com, K-Mart, Sears, Target, and Wal-Mart, as well as three major retail associations. As we gear up for the final DTV push, we can be very proud of how far we have come. Retailers have now accepted more than 10 million NTIA coupons with very few problems. I am pleased to report that every CERC member company is now a participant in the NTIA program coupon program. CERC members have been working at the local level with community organizations, government leaders, and the media to take the initiative in DTV public education.

Our members have transitioned their inventories to feature analog pass-through boxes and the current supply seems to be plentiful. The Wilmington pilot has been very useful to all DTV stakeholders. We were gratified that Chairman Martin specifically thanked CERC and our members at the September 8 Wilmington ceremony. Our members participated in educational events, donated converter boxes to senior centers in conjunction with the CEA, and directed the earlier shipments of analog pass-through boxes to Wilmington. A few issues from the Wilmington pilot stand out for retailers. Even with extraordinary educational efforts some shoppers waited until the last minute to purchase their converter boxes.

Also, apparently many consumers also waited to hook up their DTV converter boxes. Some viewers also had more problems with antennas than had been anticipated. Our members are looking closely at the Wilmington experience to analyze and apply the lessons learned. As we approach the final days of this Congress there is one more thing that can be done to approve the DTV transition

for consumers. It is ironic that with one hand our government is subsidizing the distribution of converter boxes to consumers, yet with the other apparently inadvertently is imposing a 5 percent tariff that makes the product more expensive. Representatives Ron Kind and Kevin Brady have introduced bipartisan legislation to correct this problem, and we respectfully ask members of this committee to support the timely passage of this bill.

As we enter the home stretch of digital transition some challenges remain. Retailers are working to keep up with broadcasters soft shut-offs. These on air experiments are very useful to viewers. We are working with the NAB to share scheduling information with retailers to prepare for customer response. We are also preparing for early shut-offs. CERC is aware of a handful of communities where stations are planning to complete convert to digital and cease analog broadcast in advance of the February deadline. These situations, most notably in western Nebraska, where public television stations and a couple of commercial stations convert ahead of schedule create many Wilmington experiences.

Retailers are studying the Wilmington lessons and we are working with NTIA and the FCC to understand not just what happens in advance and at the time of conversion but that happens in the aftermath. Retailers are assisting the FCC and their 81-city DTV tour, and we are focused on Puerto Rico. Our understanding is that the supply and demand situation on the island is improving. Madam Chairman, nobody knows that the end game will look like. However, there are two key dates that we keep in mind in this respect. First, of course, is the February 17, 2009, transition date. The Wilmington data suggests that some consumers will wait until the last minute to address their conversion needs. The more conversions that can be banked in advance of the switch, the better. Second is the date when the last coupon expires perhaps well into 2009. As unprecedented as the coupon program is the post coupon market for converter boxes is completely uncharted territory.

In conclusion, it has been our privilege to work with this subcommittee as well as the NTIA and the FCC to make the DTV transition a success. The chairman and the subcommittee has literally planted the first seeds of the DTV revolution many years ago. CERC and our individual members are committed to helping all Americans reap the rewards of a rich DTV harvest. Thank you.

[The prepared statement of Mr. McLean follows:]

Statement of
Christopher A. McLean
Executive Director
Consumer Electronics Retailers Coalition

Before the
Subcommittee on Telecommunications and the Internet
House Energy and Commerce Committee

Status of the Digital Television – 154 Days And Counting

September 16, 2008

Chairman Markey and Ranking Member Stearns, thank you for inviting the Consumer Electronics Retailers Coalition ("CERC") to appear in order to help review the status of the DTV Transition, of which the key date is now five months away. I am proud to serve as CERC's Executive Director. Our members include specialist retailers Best Buy, Circuit City and RadioShack, and general retailers Amazon.com, K-Mart, Sears, Target and Wal-Mart, as well as the three major retail associations – the North American Retail Dealers Association (NARDA), the National Retail Federation (NRF), and the Retail Industry Leaders Association (RILA). Along with our colleagues in the DTV Transition Coalition, we have been pleased to work with this Subcommittee, the Federal Communications Commission (FCC), and the National Telecommunications and Information Administration (NTIA) through this long, challenging and exciting process. We are gearing up for the final push to assure that no consumer loses television reception on account of any lack of information or an inability to obtain the tools or products that they need.

I. Overview of The Transition, Public Education, Inventory

As you have noted, Chairman Markey, this is your sixth hearing in this Congress on the Transition to Digital Television. We have all come a long way, and crucial months lie ahead. But we can be very proud of how far we have come:

- Retailers have now accepted more than 10 million NTIA Coupons, with very few hitches, problems, questions, or delays at the checkout counter.

- I am proud to say that *every* CERC member company is a participant in the NTIA Coupon program. In addition to accepting NTIA Coupons in their stores, three CERC members – Best Buy, Circuit City, and RadioShack – now accept coupons and sell over the telephone, and two – Amazon.com and BSAT – sell on-line.

- CERC members have been working at the local level with community organizations, government leaders and the media to take the initiative in DTV public education events. RadioShack alone has participated in or scheduled almost 200 such events; Best Buy has a long list of programs and projects with community and service organizations, on both local and national bases. Circuit City has provided venues for or participated in major events featuring Secretary Gutierrez and Members of Congress, including one sponsored by Rep. Ed Towns, and in several televised phone banks sponsored by local broadcasters.

- Now that our members have transitioned their inventories to feature "analog pass-through" boxes, the current supply seems plentiful:

    - In the FCC's tabulation of 424 Wilmington consumer calls on September 9, not a single consumer called to say that a retail store was out of boxes.

    - The NTIA now lists 35 on-line retailers and 13 who sell over the telephone.[1] Our counsel checked these on Friday. **All 35 on-line retailers had models in stock – an average of five in-stock models per retailer**, many or most with analog pass-through. **All twelve telephone retailers** with which we connected had models in-stock.

So, even apart from our own members' strong efforts and progress in keeping every store fully stocked, **any consumer with a telephone has a dozen places to call**, most of which carry several models. **Any consumer who can go on-line has 35 places**

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[1] *See* list from NTIA consumer site, https://www.dtv2009.gov/VendorSearch.aspx, also attached.

where he or she can use an NTIA coupon – one online retailer has *23* models in-stock for same-day shipment. Converter boxes are available with features to fit every budget. There are even retailers who offer a converter box for about the price of the Coupon.

The inventory situation in our members' stores has also improved since mid-summer, when some stores ran low due to a surge in demand and the changeover to analog pass-through converters. While CERC does not gather commercial information, our informal polling of members indicates a greatly improved inventory situation, with some achieving or approaching their goal of keeping every store adequately stocked. Indeed, on a recent weekend two of our members included their Converters in their national advertising which (in addition to its educational purpose) certainly does not imply any shortage of product.[2]

CERC and its members have worked closely with the NTIA and their contractor team to address specific challenges in the coupon program. We are keenly aware of the very strong demand in Puerto Rico. Our members have worked hard to recognize and serve this demand, including air-freighting shipments there. For example, at present, both Best Buy and Circuit City have literally **thousands** of boxes in their Puerto Rico inventories for their total of four stores there, and more on the way – many more than the present sales rate in those stores would justify. RadioShack has 48 stores in Puerto Rico

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[2] Copies from the Sept. 7 Best Buy and RadioShack circulars are attached. Our members' ability to direct inventory to meet demand has been greatly aided by NTIA and its contractor team's publishing Coupon redemption data by zip code.

and is maintaining inventory in all of them.[3] We continue to work with NTIA and the contractor team to try to assure that those needing unexpired Coupons can get them, and that Converters will be available to them when they do.

II. Wilmington Support and Experience

CERC was among the very first groups contacted by Chairman Martin's office to assist in the planning, announcement, and execution of the Wilmington early transition project, and our members stayed engaged throughout. We were gratified that, in the ceremony on September 8, Chairman Martin specifically thanked CERC and our members for our contribution. Now, we must all work together to analyze and apply the lessons learned.

Beyond bulking up their inventories to assure that every consumer could find a Converter, retailers faced additional challenges in Wilmington. Their staff training, in-store video messaging, and printed consumer education material all focused on the February 17, 2009 date, as did the national advertising of their own stores, and broadcaster PSAs, which of course continue to focus on that date. Thus, each Wilmington area retailer had to revise its in-store material and training. This was particularly difficult in border areas, where the February 17 message remained pertinent to some customers.

Additionally, our members worked actively with the FCC staff and others in the community to plan and host events at their stores. We were pleased that an FCC staff leader in Wilmington was Louis Sigalos, with whom CERC has been working on DTV

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[3] Moreover, like other customers throughout the United States, citizens in Puerto Rico can order Converters by phone or in a RadioShack store and have them delivered free of charge.

education since well before the passage of the Transition legislation. We also were pleased to work directly with Chairman Martin's office and staff in planning and executing events. We and our members also worked with other national associations, as in the case of the "Ask The Experts" event, sponsored by the Consumer Electronics Association, hosted at a Circuit City store in Wilmington. Our members donated Converters to local senior citizen facilities, in conjunction with a CEA program, and directed some of their earliest shipments of analog pass-through boxes to Wilmington.

The September 9 telephone calls from consumers, as tabulated by the FCC,[4] indicate that challenges do lie ahead:

- Apparently, many consumers waited until the analog shutoff to hook up their DTV Converters, then realized that they didn't know how. We and our Transition Coalition Colleagues, working with the FCC, the NTIA, and the Congress, need to do a better job of explaining that there is no reason to wait until February 17 to start attaching and using Converters.

- There appear to have been more problems with antennas than had been anticipated. This is a potentially complex issue that we will want to analyze with our Transition Coalition partners and the FCC before we further adjust our messaging and training.

Hooking up Converters now. NTIA leadership, with whom we routinely coordinate and review our messaging, had suggested to us several months ago that in the next revision of our educational material we emphasize that the Transition is going on NOW, rather than "on" February 17. Accordingly, in the revision of our CERC Guide[5]

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[4] Attached at the close of my statement.

[5] "What Consumers Need To Know About The 'DTV Transition' And The NTIA 'TV Converter Box Coupon Program'," attached and available at http://www.ceretailers.org/CERC%20Consumer%20Guide%20-%202008.pdf.

that we made after the last hearing of this Subcommittee, we removed the date from the title and made other changes to emphasize this message of immediacy.

Antennas. Initially, CERC had not discussed antennas in its educational material because the public-private consensus was that in about 95 percent of all homes, existing antennas should work fine. After some questions were raised about this earlier this year, we did include an antenna chapter in the CERC Guide. We now need to work with our private and public sector partners to analyze the Wilmington data, to see whether our guidance is the best it can be. I believe our members have been conservative on the subject of antennas, not wanting to foist unnecessary upgrades on consumers. We and they now need to see whether there is more guidance we can give, again without any "upselling."

III. Work and Coordination With NTIA

I mentioned that we revised the CERC Guide after the last hearing of this Subcommittee. We do this periodically as the Transition develops, but one of the reasons was the concern expressed by Chairman Markey over practices of some "rotten apple" (*i.e.,* non-CERC member!) retailers who had "locked up" the expiring Coupons of some consumers but failed to deliver product. We immediately began talking to NTIA about this and other expiring-or-expired Coupon scenarios, to see what could be done.

First, we and NTIA agreed that NTIA was doing the right thing in immediately ejecting any such retailers from its program. That's what the NTIA regulations call for, that is what NTIA did, and that is how any "rotten apple" incidents are being handled. We believe this is the best and surest way to protect consumers, and that it has worked.

The CERC Guide now urges consumers with complaints about retailers to contact the NTIA right away, and provides an email link for them to do so.[6]

The underlying issue, however, is that at the time of your last hearing some consumers were having difficulty finding Converters and were left with expired or expiring Coupons. Our members' management and NTIA's management looked very, very hard at whether there should or could be a change to the NTIA requirement that a retailer only accept a Coupon if it can provide or set aside a Converter for shipment. We concluded that a change to this requirement would only open the door to the sort of "rotten apple" misconduct that we all were trying to guard against, could not be implemented until the temporary inventory squeeze was over,[7] and would likely cause great consumer confusion as *all* retailer personnel, who had been trained and were efficiently abiding by the existing rule, would have to be retrained according to a directly contrary understanding.

What did emerge from our discussions with the NTIA was a "help your neighbor" program to assist consumers who need unexpired Coupons in obtaining them with the help of individuals in their community. In our input to the NTIA regulations, CERC had urged that a retailer should be able to accept any NTIA Coupon that is valid and unexpired, no matter who had requested it, and this is what the NTIA regulations provide. Nationally, the redemption rate for Coupons still hovers at just under 50 percent, meaning

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[6] Additionally, our counsel did legal research confirming that the sort of conduct noted by Mr. Markey would likely *also* run afoul of existing FTC regulations and federal mail fraud provisions. We are prepared to share this research with the NTIA or other authorities to the extent any further problems emerge.

[7] Actually after studying this with NTIA and the contractor team we all concluded that for technical reasons such a change could not be made during the lifetime of the program.

that from the onset of the program, no matter what the inventory situation, about half of all Coupons have been expiring without being used. This is no surprise – it is just as easy to request two Coupons as it is to request one, and over 90 percent of all applicants do so. Some consumers who have requested Coupons also learn that they don't really need one, or decide to sign up for cable or buy a DTV receiver instead. ***These Coupons that will not be used, and others that can be ordered by neighbors and family who are eligible to request them, are a major potential source of Coupons for those who have seen their own Coupons expire.***

After your last hearing and our discussions with the NTIA, we revised our CERC Guide to address *both* the issues of retailer misconduct *and* the "help your neighbor" idea. We took this idea to our partners in the Transition Coalition, where some others had been thinking along similar lines. As a result, Coalition material is being revised to encourage this solution. We also understand that in Puerto Rico the NTIA is now working with church groups to implement this idea on a very local[8] basis.

Looking ahead toward February 17, and to mid-2009, when we expect the last Coupon to have expired, we know that additional and perhaps even more difficult challenges are in store. Nobody knows what the final demand will be for Converters, or if there will be any demand for them once the last Coupon expires. CERC does not and cannot be involved in discussions of commercial intention, but it seems evident that the component suppliers, manufacturers, and sellers of Converters will be looking to avoid either a shortage or a glut of product at the time the last Coupon expires. There is no

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[8] Neither we nor NTIA mean to encourage any wholesale trafficking in Coupons, and their sale or exchange for remuneration rightly remains against NTIA regulations.

precedent or history to help any of them identify this "sweet spot" either nationally or locally in thousands of stores. As Mr. Ripperton of RadioShack testified at your last hearing, this has been one of the most challenging inventory planning episodes in anyone's experience, and it may be that the most challenging part still lies ahead.

IV. Work And Coordination With FCC

CERC's joint work with the FCC began well before the passage of the Transition legislation. We co-branded a DTV "Tip Sheet" with the FCC and CEA, and several members distributed them in stores and electronically. We contributed to the discussions at the FCC about the place analog pass-through boxes have in the Transition, and CERC member retailers and their vendors modified their procurement and inventory plans accordingly. This led to the addition of new models to the inventories of some members, and to the complete conversion of inventory by others. Since sometime in July, all CERC members have carried pass-through Converters in their inventories of Coupon-eligible Converters. (Based on our counsel's recent research they are now in the inventory of almost all of the on-line and telephone retailers listed by NTIA, as well.)

Throughout the year, CERC members have provided venues for public education local events hosted by or featuring Chairman Martin or the other FCC Commissioners as well as Members of Congress and other political leaders. Building on our successful work with the FCC in Wilmington, CERC members have been actively recruited for, and have responded enthusiastically in, the FCC's 80-plus city "roadshow" that is now under way. We expect that CERC member stores throughout the country will be among the venues as the Commissioners and staff tour the country. As in Wilmington, this involves listening, observing, and learning, as well as educating. We look forward to working

with the FCC and its people, and our other private and public sector partners, to process what we hear and better focus our efforts in the crucial final months of the Transition.

V. DTV Tariff Reform Legislation

As Mr. Ripperton testified at your last hearing, and as Greg Hephner, of Wichita, KS CERC member Hephner TV testified at few months ago at a Small Business subcommittee hearing, it is both distressing and ironic that with one hand our government is subsidizing the distribution of Converters to consumers, yet with the other, apparently inadvertently, is imposing a five percent tariff that can only make them more expensive or shorter in supply. Bipartisan legislation, H.R. 5635, was introduced by Reps. Ron Kind and Kevin Brady to correct this absurdity and inequity, and companion legislation introduced by Senators Lincoln and Roberts is also pending in the Senate. Though the bill was not assigned to this Committee, we hope that this Committee and its members, who have led in all things pertaining to the DTV Transition, will also be leaders in helping this legislation pass as this Congress heads so rapidly to a close. On behalf of CERC and its private sector allies seeking passage of this important bill, I can commit to working with you and your staff to help make this happen.

VI. Challenges Ahead

In closing, Mr. Chairman, on behalf of CERC I want to thank and congratulate you and Chairman Dingell, and Ranking Members Barton and Stearns, your staffs, and the subcommittee members, for having these six hearings in this Congress, and the many in previous Congresses that resulted in the passage of the Transition legislation. It has not always been easy sledding for us and some of our colleagues in the private sector, but we are all doing a better job because of it. Nobody knows whether you might be able to

have another before the year is out, so here are the main challenges we see as we enter the Transition homestretch:

- **Keep Up With Spot "Soft" Shutoffs.** One technique that local broadcasters and cable operators have embraced has been the "trial shutoff" that briefly simulates the real thing, and allows consumers to see which of their TVs remains "on." From the outset, with an early implementation in Las Vegas, we have discussed this project in the Transition Coalition, and our broadcaster partners agreed to give CERC advance notice of these events, so our members can take them into account in our inventory distribution planning. These are now so popular that every week we get a long list of them from NAB, and distribute it to our members. This requires constant adjustment to our members' inventory planning and priorities.

- **Prepare for Early Shutoffs.** CERC is aware of a handful of communities where stations are planning to completely convert to digital and cease analog broadcast in advance of the February deadline. These situations, most notably in Western Nebraska where public television stations and a couple of commercial stations convert ahead of schedule, create mini-Wilmington experiences.

- **Apply The Wilmington Lessons.** We don't know all the Wilmington lessons yet, and appreciate the timing of this hearing so that we can all absorb them. We want to do this as soon as possible, because even though it is still Summertime, by retailers' calendars we are on the verge of the holiday shopping season when it will be difficult to focus our stores and personnel on anything else. We want to work with the FCC, the NTIA, and our partners to make any necessary adaptations as quickly and efficiently as possible. Wilmington is important not just for what happens in advance and at the time of conversion, but what happens in the aftermath.

- **Focus On Puerto Rico.** Our understanding is that the supply and demand situation in Puerto Rico is improving. On both the Converter supply and Coupon distribution fronts we and our members are cooperating with the NTIA and its contractor team, and (directly or indirectly) with concerned congressional offices, to assure that citizens in Puerto Rico are well served. We do want to hear about problems and we want to address any. Our member companies' literature is almost universally made available in both English and Spanish, in Puerto Rico and elsewhere.

- **Help Consumers Find Converters If Necessary.** At present, it appears that CERC members and the dozens of other on-line and telephone retailers listed on the NTIA site have plentiful inventories. After a tight summer for some retailers in some local areas, our members report fully stocked shelves in all or most of their stores. Nobody knows what the "end game" will look like, however. There will be two, not just one, key dates in this respect:

- **February 17, 2009.** Ideally, we would hope that "last minute" consumers will find Converters at their local retailers. If there are spot shortages, however, we *all* in the public and private sectors need to remind consumers that three CERC members (Best Buy, Circuit City, RadioShack) ship from toll-free numbers, two CERC members (Amazon.com and BSAT [www.bsat.net]) accept Coupons over the Internet, and dozens of others do one, the other, or both.

- **Date When Last Coupon Expires.** The NTIA will still be accepting Coupon applications after February 17, so the last Coupon is unlikely to expire until well into 2009, on or before July 9. For retailers this will be an extraordinarily difficult period to predict demand, especially at the local store level. Moreover, it seems unlikely that suppliers of components and Converters will be eager to offer or support inventory once the shutoff has occurred, and any remaining demand is residual. And nobody knows whether there will be any appreciable demand for these limited-utility products, which are constrained from including additional features, once the last Coupon has expired. However the laws of supply and demand do operate in this unique and unprecedented period, we must all do our best to help consumers find what they need, where and when they need it.

* * *

In conclusion, Chairman Markey, it has been our privilege to work with this Subcommittee in this ambitious endeavor, through thick and thin. Given all the doubts and uncertainties we had 18 months ago, we in retail are pleasantly surprised, or at least gratified, that the program has worked so well. Everyone in the public and private sector partnership can take credit for this, just as we will all take the blame if it goes off the rails at the end. The Transition will not be a complete success until everyone who wants to maintain his or her over-the-air viewing has been able to do so in the manner they choose. That is CERC's goal, and we look forward to working with you, the FCC, the NTIA, and our Transition Coalition partners to make this happen.

Thanks you very much for having invited us to testify today.

www.dtv2009 listing as of 9-12-2008

Online and Telephone Retailers

Converter boxes can also be purchased online or by telephone and can be shipped directly to your home.

Online Retailers:

A1activations at www.a1activations.com
All American Direct at www.allamericandirect.com
Amazon at www.amazon.com
Antennas Direct at www.antennasdirect.com
Broadband Solution's BSAT e-shop at http://dtv.bsat.net
Bruce's Antenna Systems at www.watchdigitaltv.com
Cerebral Cortech at www.freetvsignal.com
Compu Parts and More at www.compupartsandmore.com
Cadence Sound System at www.mytvconverter.com
Consumer Electronics Group at www.consumerelecgroup.com
Data Action LLC at www.data-action.com
Direct Depot at www.directdepot.net
DISH Network at www.dtvpal.com
Ditec at www.cheapdigitalconverters.com
DTV Box Answers at www.dtvboxanswers.com
E & E Electronics at www.digitalstar.com
eIndustries.biz at www.eindustries.biz
Gridlink Technologies at www.egridlink.com
Happy Iguana at www.tvconverterboxstore.com
Home Theater Consultants at www.analog2digital.tv
iNet Access at www.ezdtv.com
JtecDirect at www.jtecdirect.com
Logic Mart at www.kingboxinc.com
Meritline at www.meritline.com
Microtel Systems at www.convertdtvnow.com
Mosquito Productions at FreeDTVShop.com
Newcast at www.newcaststore.com
QVC at www.QVC.com
Satellite Radio Superstore at www.digital-tv-converter.net
SavingLots at www.savinglots.com
Skyview at www.skyviewf2a.com
Solid Signal at www.solidsignal.com
Summit Source at www.SummitSource.com
The Twister Group at www.thetwistergroup.com
Winegard at www.WinegardDirect.com

Telephone Retailers:

A1activations at 800-670-0388
All American Direct at 1-800-249-1063
Best Buy DTV Hotline and Order Center at 1-877-BBY-DTV9 (1-877-229-3889)
Circuit City at 888-280-9382
DISH Network at 888-638-9912
Etronics at 1-800-323-7669
Fingerhut at 1-888-301-5606
iNet Access at 877-388-7010
My Virtual Zone at 1-866-819-9888
Online Electronics Liquidation at 800-717-1635
RadioShack DTV Telephone Order Center at 1-877-RS-DTV-4U (1-877-773-8848)
Satellite Radio Superstore at 800-513-8554
Solid Signal at 1-866-3SIGNAL (1-866-374-4625)

BE READY FOR THE SWITCH TO 100% DIGITA

WE GIVE YOU 3 EASY SOLUTIONS.

1. Purchase a Digital Converter Box 2. Upgrade to an LCD HDTV 3. Subscribe to DISH Network

If you have an analog TV and use a rooftop antenna or rabbit ears, you must take action before February 17, 2009 to continue receiving

SOLUTION #1

PURCHASE A DIGITAL CONVERTER BOX WITH ANALOG PASS-THROUGH.

$59.99 15-150/193

Plus get $40 OFF with the government TV Converter Box Coupon Program.

- Hooks up easily to your analog TV to receive over-the-air digital broadcasts
- With analog pass-through you'll receive the new digital stations plus any low-power analog stations not switching to digital
- When used with a quality antenna, the converter box may also provide clearer digital pictures and additional channels in many areas
- Includes a universal remote that also controls most TVs and DVD players

TV CONVERTER BOX COUPON PROGRAM

TAKE ACTION BEFORE FEBRUARY 17, 2009!

WHY THE CHANGE TO DIGITAL?

- Provides additional airwave space
- Better signal quality
- More programming

SOLUTION #2

UPGRADE TO AN LCD HDT WITH BUILT-IN DIGITAL TUN

- No converter box needed
- Enjoy new programming and fall sports action like never before

AOC

SAVE $10

32" 720p LC

$499.99

As Low As $1

31.5" measured

16-649/684 Reg

BOTH FEATURE

AOC

SAVE $10

26" 720p LC

$399.99

As Low As $10

16-648 Reg. 49

EVERYTHING IN ACCESSORIES

Your neighborhood RadioShack has a great selection of antennas to use with your converter box plus all the cables and connectors you need to hook up an HDTV.

SOLUTION #3 SEE DISH NETWORK ON NEXT PAGE

credit approval for purchases made on the RadioShack ArrowsPlus® credit card. The advertised minimum monthly payment is an estimate of the minimum monthly payment required based does not include taxes or other charges and is based on the APR for purchases listed below. The actual required minimum payment for your account may be more or less than the amount sho including application of the default rate, exceeding balances or making additional transactions, including optional credit protection fees billed to the account, and interest ses billed to the account. You can always pay more than the amount indicated above since the more you pay each month, the quicker your balance will be repaid. See card ement for details. **APRs** up to **23.85%**. Default **APR** 27.85% (rates may vary). Minimum **FINANCE CHARGE: $1.50**. Offer is only valid for consumer accounts in good standing.

Stock policy on advertised items. Products were selected far in advance and may not be currently available. Participating stores will issue rain checks for the advertised on out-of-stock items (excluding special-purchase items and phone orders). If sold out, a comparable value will be offered. Independent RadioShack dealers may not be cipating in this ad or stock or special-order every item advertised. Not liable for pictorial or typographical inaccuracies. Warranty copies available at stores or by writing Shack Customer Care, Mail Stop CF7-101, 300 RadioShack Circle, Fort Worth, TX 76102. ©Copyright 2008 RadioShack Corporation, Fort Worth, TX 76102.

Ra
Do
RadioS

ALL ADVERTISED TVs $999 & up ON SALE[1]

"...color is phenomenal."

★★★★★ 5.0 Customer Rated[2]

Pioneer KURO

50" Class 1080p Plasma HDTV

49.9" measured diagonally. 4 HDMI™ inputs, USB 2.0 and a PC input. (PDP-5020FD) 8869147

SAVE $400 INSTANTLY $3999.99 Before Savings

Check out more customer reviews on KURO TVs at BestBuy.com/Pioneer

Geek Squad Save up to $150[3] on any Geek Squad® home theater service when you buy any HDTV $999 & up

Pioneer KURO

60" Class 1080p Plasma HDTV

59.6" measured diagonally. Room light sensor automatically adjusts picture for varying light conditions and programming type for enhanced picture quality. 4 HDMI™ inputs, USB 2.0 and a PC input. (PDP-6020FD) 8867871

SAVE $550 INSTANTLY $5499.99 Before Savings

We'll get you ready for the digital TV transition

By law, on February 17, 2009, digital television broadcasts will replace our current analog system nationwide.

If you currently use an antenna-based TV signal and you want to continue to receive free over-the-air programming on your analog TV, you will need a Digital-to-Analog Converter Box like this one.

$59.99

APEX

Digital-to-Analog Converter for Analog TVs

Provides an analog pass-through so you can hook this converter box up now and receive both digital and analog signals. (DTX5-/DTX12) 8861177/8872378

To learn how to get up to two $40 coupons for converter boxes, go to BestBuy.com/DTV, talk to a Customer Specialist in store or call 1-877-BEY-DTV9.

[1] Markdowns taken from regular prices. Excludes Power Price TVs, Outlet Center items, clearance, demo and open-box items. Selection varies by store. Online offer may vary. See a Customer Specialist for details.

[2] Reflects the average customer rating as of Sunday, 8/12/2008. See BestBuy.com® for the most current information.

[3] Excludes Power Price TVs. Not valid on kiosk delivery or consultation service.

Wilmington, NC DTV Transition (September 9, 2008)
Overview of DTV Calls

Wilmington, NC Transition Calls from Second Day
Overview/Analysis of Wilmington Transition Test DTV Calls

Category	Count
CONSUMERS WHO WERE NOT AWARE OF THE TRANSITION	
They were not aware of the switch to DTV	10
They were unaware of the correct transition date	10
They did not think the stations they watch would switch to digital	15
Subtotal:	**35**
CONSUMERS WHO WERE AWARE BUT DID NOT ACT	
They forgot to upgrade	19
They were unable to attain assistance to upgrade	4
They relied on another member of their household to upgrade	4
They waited too long to buy or set up a digital set or a converter box	19
They were out of town or too busy or knew they could do it later	11
Subtotal:	**57**
CONSUMERS WHO HAD PROBLEMS WITH THE CONVERTER BOX COUPON PROGRAM	
A coupon did not arrive in time	17
Wanted coupon or had not received coupon from NTIA	8
The retail store was out of boxes	0
Subtotal:	**25**
CONSUMERS WHO HAD INITIAL DIFFICULTY WITH THEIR CONVERTER BOXES	
Setting up converter boxes was too hard	12
They didn't understand the instructions for the digital set or the converter box	17
Their converter box "didn't work"	78
Subtotal:	**107**
CONSUMERS WHO HAD RECEPTION AND TECHNICAL PROBLEMS	
Their antenna didn't work or they have no antenna or their antenna wasn't connected	42
Problem with channel or call sign	13
Weak or spotty signal	2
Subtotal:	**57**
CONSUMERS COMPLAINING ABOUT NOT RECEIVING WILMINGTON SIGNALS	
Problem with channel or call sign	124
Subtotal:	**124**
OTHER PROBLEMS	
Satellite subscribers to Dish Network or Direct TV – did not subscribe to local package	3
They thought all their sets were hooked up to cable or satellite	7
They were waiting for cable or satellite installation	6
Wanted DTV consumer information sent to them	3
Subtotal:	**19**
Total	**424**

Ms. HARMAN. Thank you, and thank you for the interesting information about some communities acting in advance. It seems to me that is a wise idea. Our third witness is David K. Rehr, President and Chief Executive Office of the National Association of Broadcasters. Prior to joining the NAB, Mr. Rehr served as the President of the National Beer Wholesalers Association. Welcome, and please summarize your statement in 5 minutes.

STATEMENT OF DAVID K. REHR, PRESIDENT AND CEO, NATIONAL ASSOCIATION OF BROADCASTERS

Mr. REHR. Thank you. Good morning, Congresswoman Harman, Congresswoman Solid, and Mr. Gonzalez. My name is David Rehr, and I am President and CEO of the National Association of Broadcasters, a trade association that represents over 8,300 free over-the-air radio and television stations and networks. I was in Wilmington, North Carolina with Chairman Martin, Commissioner Copps and Secretary Baker on Monday, September 8, when the four commercial and one religious station transitioned to all digital broadcasting. So what lessons did we learn and what are we doing to implement those lessons? One, in Wilmington there was universal awareness of the DTV transition. On the day after the switch stations received preliminary data that showed out of the 226 telephone calls received only one caller was unaware of the switch to digital.

This is indicative of the nationwide numbers that show DTV transition awareness near universal levels. Despite these high numbers, however, broadcasters will continue to run DTV action spots to educate viewers. Additionally, the NAB is compiling polling information from the Wilmington experiment which I will be happy to share with the committee. Two, we learned that many viewers needed help adjusting or moving their antennas or needed more detailed information about what kind of antenna they needed. Prior to Wilmington, NAB released two spots, Antenna Highway and Not Tech Minded, that raised this important issue. The announcer is the same person that we used to help build awareness of the DTV transition, and our spots are all closed captioned in both English and Spanish, and I would like to show one now.

[Video shown.]

Most viewers experienced reception problems following the switch because they failed to scan for digital channels using their new converter box. As part of our national education campaign, NAB will create and distribute spots detailing how to use the scanning feature. Four, the call center in Wilmington was a key ingredient to their transition. A centralized call center will be invaluable to the success of the nationwide digital switch. As you know, in just 154 days the remainder of the country will make the historic switch from running DTV action spots to organizing speakers bureaus to driving the DTV trekkers to communities across the country. NAB and its television networks, syndicators and local TV stations are executing a $1 billion plus marketing plan to inform the country about the transition.

Now in addition to all that we have done, NAB has taken another step to further minimize the potential for consumer confusion. While we do not believe there will be any consumer confusion

in an abundance of caution the NAB television Board of Directors has voluntarily committed not to disrupt any relationship with our cable or satellite distributor partners beginning on February 4, 2009, and running through March 4, 2009, a full 2 weeks prior to and after the DTV transition date of February 17.

History demonstrates that broadcasters and our distribution partners have a positive relationship, and we have every incentive to continue to work together. At present, there are 1,017 stations, that is 81 percent of commercial stations that support the NAB resolution. We have a broad range of stations endorsing this proposal from NAB, members like ABC, NBC, Hearst-Argyle, and Belo to non-NAB members like Sinclair Broadcasting. I expect that we will continue to add more stations and companies in the upcoming weeks. Through this DTV journey, I am most proud of the outreach we have done with diverse and varied groups around the country, including the Black Church initiative, Esperanza USA, Native American tribal groups, the Leadership Conference on Civil Rights, state and local governments, AARP, the Congressional Hispanic Caucus, the Congressional Black Caucus, the 241 members of the DTV coalition, and local television broadcasters across the country.

Working together, we can meet the goal of insuring that no one is left behind for lack of information. Thank you for having me, and I look forward to your questions.

[The prepared statement of Mr. Rehr follows:]

Testimony of David K. Rehr

President and CEO,

The National Association of Broadcasters

Before the

House Subcommittee on Telecommunications and the Internet

Of the

House Committee on Energy and Commerce

Status of the DTV Transition: 154 Days and Counting

September 16, 2008

Good morning Chairman Markey, Ranking Member Stearns and subcommittee members. My name is David Rehr and I am the president and CEO of the National Association of Broadcasters (NAB). NAB 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 (FCC), other federal agencies and the courts.

The topic of today's hearing is the digital television (DTV) transition. In 154 days, television as we all know it will change for the better when full-power television stations nationwide make the switch to digital-only broadcasting. Digital broadcasting offers crystal-clear pictures and sound, more channels and more services than ever before. And it's free.

I would also like to take this opportunity to express the broadcasters' appreciation for the leadership that has been provided by Capitol Hill and in particular the members and staff of the House Energy and Commerce Committee. We also applaud FCC Chairman Kevin Martin for his leadership and the other Commissioners for their efforts. Over the past several months, we have been working closely and cooperatively with Chairman Martin, the other Commissioners and the FCC's professional staff on both viewer education initiatives and technical matters associated with the transition. We look forward to continued cooperative efforts during the final months before the transition date.

I. Broadcaster Creativity and Leadership are Generating High Levels of Viewer Awareness and Preparedness

Broadcasters are leading the way to educate consumers about the DTV transition. Every broadcast network and television stations nationwide are participating in a massive, multifaceted campaign that includes DTV Action television spots, local speaking engagements, a nationwide road show and a variety of other grassroots initiatives.

Broadcasters are fully committed to making certain that television viewers understand what they need to do to continue receiving their local television signals after

the switch to digital-only broadcasting on February 17, 2009.[1] It is in our business self-interest to do so and to assure that no consumer – no viewer anywhere – is left behind due to a lack of information about the transition. Currently, there are 19.6 million U.S. households that receive over-the-air, broadcast-only signals, equating to 17 percent of total U.S. households. There are, on average, 2.27 television sets in these households, or approximately 45 million television sets that will be affected when analog signals are shut off in 2009. In addition, an estimated 24 million broadcast-only televisions in households also have cable, satellite or Internet connections. In total, nearly 69 million television sets may be affected.

Local television stations that today keep their communities informed and connected will remain a vibrant part of the media landscape in the 21st century. We all desire a smooth transition to digital with minimal disruption to TV viewers. For this to happen, the American public must understand what all-digital broadcasting means for them, including the many benefits it will bring, the options available to prepare for the transition and the appropriate steps to take.

To that end, the broadcast industry has embarked on an unparalleled and unprecedented consumer education campaign. This campaign is a multifaceted, multi-platform education effort that uses all of the tools available to broadcasters and other related industries to achieve success.

Since late 2006, broadcasters have been coordinating extensively with government, private industry, membership organizations and others to educate all consumers so that they understand the DTV transition. NAB and the DTV Transition

[1] Deficit Reduction Act of 2005, Pub. L. No. 109-171, Title III, §§ 3002(a), 3003, 3004, 120 Stat. 21, 22.

Coalition (Coalition) have continued to work closely with both the National Telecommunications and Information Administration (NTIA) and the FCC to ensure that consumers have the information they need to prepare for the transition from analog to digital broadcasting. Please see the list of the Coalition's extensive membership (Attachment A). Through the hard work and continuous efforts of the Coalition we have been in constant coordination with local communities nationwide, particularly those communities that are most impacted by the transition. No avenue to reach consumers is being left unexplored as we reach out to all demographics, all geographical areas, urban and rural communities, the young and the old. Set forth below is a discussion of the key facets of the campaign:

DTV Action Spots. NAB has produced 14 DTV Action television spots in multiple versions, which we have distributed to all NAB member stations and non-member stations via satellite. The first two spots, "Get the Facts" and "Revolution," promote general awareness of the DTV transition and urge viewers to get more information from the www.DTVAnswers.com Web site. Another spot promotes NAB's DTV Road Show. Two spots, "The Future is Here" and "Just a Box," promote converter boxes as an option for consumers to make the upgrade to digital, the government's $40 coupon, and direct viewers to www.DTV2009.gov and 1-888-DTV-2009 for more information. The "Digital is in the Air" spot reminds viewers that digital TV is available now, and retired TV Personality Bob Barker is featured in another spot communicating to viewers who are affected by the DTV transition. One animated spot and three new spots entitled "Ask Mr. Television," promote the benefits of digital. And our two newest spots, "Antenna Highway" and "Not Technically Minded," educate viewers about the need to have the best antenna and direct viewers to the FCC's toll free number and

www.antennaweb.org, an online resource which provides information about antenna use and direction.

Low-Power TV Action Spots. NAB produced and distributed three television spots that explain the low-power translator issue to television stations in markets with large numbers of translators. The spots come in 15-, 30- and 60-second versions and are available in both English and Spanish. We distributed them to stations in mid-April.

TV Station Tools. NAB has created a full graphics package for stations to help communicate the DTV transition in newscasts and spots. The package contains video of converter box installations, graphics of DTV equipment and interviews with federal officials, including U.S. Secretary of Commerce Carlos Gutierrez and FCC Chairman Kevin Martin. NAB has also produced and distributed a DTV style guide to help stations convey accurate and consistent messages about the DTV transition.

30-Minute Educational Program. On March 10, 2008, NAB produced and distributed a 30-minute educational program, "Countdown to DTV," to television stations across the country. The program was designed to help consumers navigate the transition to digital television. All NAB member and non-member stations were able to obtain the program in standard definition (SD) or high definition (HD) formats, and in both English and Spanish.

DTV Speakers Bureau. Working with local TV stations and state broadcaster associations across the country, NAB created the DTV Speakers Bureau to reach 8,000 audiences about DTV at local community events across the country before February 17, 2009. The DTV Speakers Bureau network is made up of local TV station broadcasters, general managers, engineers and state broadcast associations, among others. The DTV Speakers Bureau currently stands at 1,171 registered speakers from 713 TV

stations. At least 2,020 speaking engagements have been booked, with 3,773 completed with an average audience size of 131 attendees. For more information, or to register a speaker at your next local event, groups can visit www.DTVSpeak.com. Additionally, NAB staff members have keynoted multiple conferences with speeches on the DTV transition issue, from London, England, to Little Rock, Ark., to Las Vegas, Nev.

DTV Road Show. A major grassroots marketing initiative, the DTV Road Show aims to increase consumer awareness of the February 17, 2009 transition in targeted areas with high percentages of broadcast-only households. The road show includes two DTV Trekkers – moving trucks designed to resemble giant television sets – that are crisscrossing the country until transition day in 2009. The Trekkers visit local fairs, festivals and other community events in high over-the-air sections of the country and provide DTV information to those most disproportionately affected by the transition to digital. The DTV Trekkers will travel 95,000 miles and visit 600 locations nationwide. To learn more about the DTV Road Show, visit www.DTVRoadShow.com. To date, the DTV Road Show has visited 105 cities. A full list is available at Attachment B.

Earned Media. NAB's DTV transition team has two full-time media relations staff members dedicated to generating widespread media coverage of the DTV transition and ensuring that reporters are covering the issue accurately. NAB has briefed reporters from major news organizations on the DTV transition and conducted media tours in markets across the country, including New York, Chicago, San Jose, Philadelphia, Madison, New Orleans and Washington, D.C., and has generated print, online and broadcast media coverage about the transition in all 50 states. In April 2008, NAB began sending out a weekly email with DTV-related updates to help hundreds of reporters nationwide stay abreast of how the transition is going. NAB's earned media

team, which also employs a public relations firm, is in regular contact with more than 4,500 reporters to promote local news hooks about the transition. The team has helped garner more than 10,780 news articles about the transition and conducted more than 110 radio interviews, 17 of which were in Spanish.

DTVAnswers.com Web site. In 2007, NAB launched www.DTVAnswers.com, one of the most comprehensive, consumer-friendly Web sites about the DTV transition. The site provides consumers, businesses and other interested organizations an in-depth look at every aspect of the DTV transition. Consumers can learn how to upgrade to digital television, get information about converter boxes and antennas, as well as access additional related resources. To help organizations spread DTV messages to their members, the site also makes available various promotional materials, including downloadable flyers and sample PowerPoint presentations. NAB also offers DTV transition information in more than 60 languages, including a Braille version upon request, at www.dtvanswers.com/dtv_languages.html. In addition, one can view and download NAB's DTV Action spot videos. The Web site has drawn nearly three million visits since its launch and averages about 8,000 visits per day.

LPTVAnswers.com Web site. To help consumers who wish to continue watching programming from local low-power TV stations after the February 17, 2009 transition to digital, NAB launched www.LPTVAnswers.com, which provides comprehensive information about the low-power issue. With links to state-by-state maps of low-power TV stations and a list of government-certified analog pass-through converter boxes, the site serves as a guide for all low-power TV consumers. The site now offers a new feature, which allows viewers to type in their zip codes to find low-power TV stations broadcasting in their areas.

Outreach to Elected Officials and Hard-to-Reach Populations. NAB has sent DTV Toolkits to elected officials across the country, including all members of Congress, state legislators, governors and lieutenant governors, executive directors of state municipal and state county associations, state African-American caucus leaders and state Hispanic elected officials. In May, NAB mailed a DTV Toolkit to 449 tribal leaders in the United States. In mid-June, we provided toolkits to 1,113 Meals on Wheels state chapter heads. The DTV Toolkit contains: a PowerPoint presentation on the DTV transition that can be used during a town hall meeting or any gathering of constituents; a newsletter insert for newsletters in English and Spanish; a DTV handbill in English and Spanish; a consumer resource guide in English and Spanish; a sample press release in English and Spanish; a sample op-ed on the DTV transition in English and Spanish; key points on DTV; banner Web site ads that may be linked to www.DTVAnswers.com; sample speeches on DTV; and a DTV background sheet. NAB also created an online toolkit for elected officials, which was blasted out to about 7,000 state legislators, mayors, and county commissioners.

DTV Staff Briefings in Congress. In April and July 2007, NAB hosted DTV transition briefings with more than 100 U.S. House staff and more than 40 U.S. Senate staff. In October 2007, working with the DTV Transition Coalition, NAB hosted a DTV staff briefing for members of the U.S. House of Representatives and their staffs, which drew 200 staffers and some members of the U.S. House. A DTV staff briefing in February 2008 hosted by NAB and the DTV Transition Coalition drew 40 attendees, mostly U.S. Senate staffers. Converter box demonstrations were given at all events and various consumer awareness materials were made available to attending staff.

Live DTV Webcast for Congressional Staff. In April and July 2008, NAB hosted special live webcasts for congressional staffers to address DTV issues unique to our government partners. NAB's DTV Transition team discussed how the federally mandated transition will impact communities across America, what consumer education and outreach initiatives are already underway by broadcasters and how to access information about the DTV coupon program and converter boxes. More than 600 staffers tuned in for these live webcasts.

National Black Church Initiative. In late 2007, NAB began collaborating with the National Black Church Initiative (NBCI) to educate Washington, D.C. residents about the digital television transition. The NAB/NBCI initiative has been implemented nationwide to help those most affected by the DTV transition learn how to prepare for the switch to digital television. The initiative will reach nearly eight million congregants in churches across more than 40 cities, including Atlanta, Miami, Philadelphia, Detroit, Chicago and Dallas. Congregants will receive educational literature about the DTV transition and converter box coupon program, as well as assistance with applying for the converter box coupons.

Esperanza USA. NAB has partnered with Esperanza USA, the largest organization of its kind in America with a 10,000-strong network of Latino faith-based agencies, to inform Hispanic households about the DTV transition. Spanish-speaking households are among the most disproportionately affected populations by the transition. Esperanza has incorporated DTV messages in its membership publications, grassroots activities and its annual National Prayer Breakfast.

Spanish Town Hall Initiative. In partnership with the Spanish-language television network Univision, NAB is conducting a series of town hall forums to raise

awareness among Hispanics in America about the upcoming DTV transition. The hour-long televised town halls have drawn large audiences of primarily Spanish speakers in some of the nation's largest Spanish-language markets. NAB has already conducted 16 town halls in Chicago, San Francisco, Austin, Dallas, Sacramento, Fresno, Phoenix, Houston, Bakersfield, New York, San Antonio, Miami and Los Angeles, and more are planned. The series builds on the success of a December 2007 town hall in Chicago, which drew more than 700 people.

Radio Spots. NAB has produced and distributed DTV radio spots in 15-, 30- and 60-second versions in both English and Spanish. Sample scripts have also been provided to stations that are interested in producing their own spots. The spots have been distributed to NAB member radio stations across the country and are downloadable at www.dtvanswers.com/radiospots.

Survey Research. NAB has dedicated significant financial resources toward consumer research. In January 2008, NAB commissioned a nationwide poll that found more than 83 percent of broadcast-only households are aware that the DTV transition is underway. In May 2008, NAB commissioned a massive 50-state survey to measure consumer awareness in every state. The poll showed near-universal national awareness of the transition at 90 percent. NAB distributed the findings to national and local broadcast and print media outlets.

International Research. NAB staff have visited and opened dialogues with officials running respective DTV transition campaigns in the United Kingdom, Sweden, Austria, Greece, Italy, Norway, Finland and Belgium to learn how European nations – some of which have already transitioned to digital – are running their digital transition campaigns. In January, an NAB staff member keynoted an international conference on

DTV transition strategies. NAB has also invited officials from those countries and others, including Austria and Singapore, to discuss DTV deployment issues with American television broadcasters. The CEO of the United Kingdom's DTV transition campaign met with NAB staff and our coalition partners in 2007.

Facilitation of Coordinated Analog Shut-Off Tests. NAB also has facilitated coordination among broadcasters in local markets who are conducting over-the-air analog "shut-off" tests. During these tests, participating broadcasters in a given market temporarily replace their analog signals with a message informing viewers that if they can see the image, they need to upgrade that set by February 17, 2009, to continue watching television and directing them to Web sites and/or hotlines for more information.

NAB is also working with the FCC to help facilitate analog shut-off tests and media events, as the FCC's commissioners and senior staff visit more than 80 markets with high concentrations of viewers most affected by the DTV transition. NAB staff are working with executives from numerous state broadcast associations to fully leverage the commissioners' events.

As demonstrated above, NAB has been driving the message of digital transition across numerous consumer media touchpoints. The combined elements of the DTV campaign will reach nearly all television viewers and generate 132 billion audience impressions[2] during the course of the campaign, which will run through February 17,

[2] 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.

2009. By engaging consumers via television, the news media, online, through outdoor efforts and direct grassroots events, the message will be seeded and communicated much more effectively than through television advertising alone.

II. NAB Joined Forces with FCC to Help Prepare Viewers in the DTV Test Market of Wilmington, North Carolina

Broadcasters understand that policymakers share our concern about the upcoming transition. For that reason, we have consistently made clear that ours is a commitment with accountability. Our education approach has been aggressive and comprehensive. It also has included an element of flexibility necessary to ensure effectiveness. A perfect example of the accountability, effectiveness and flexibility of our approach was our collaborative effort on the early transition to digital in the Wilmington, N.C.

At noon on September 8, 2008, Wilmington, North Carolina, became the first television market in the country to switch to all-digital broadcasting. Five commercial stations in Wilmington agreed to turn off their analog signals several months ahead of the national transition to DTV. The FCC announced in May that this early test would help the agency minimize potential burdens for viewers and maximize their ability to benefit from the switch to DTV. On the heels of the FCC's announcement, NAB launched equally vigorous efforts in Wilmington aimed at helping area residents, local broadcasters, retailers and government agencies navigate the early digital switchover.

With Wilmington broadcasters at the helm of this experiment, NAB worked to ensure that efforts among the local stations were as effective as possible. NAB collaborated closely with the North Carolina Association of Broadcasters and met individually with all of the participating stations in the Wilmington market, as well as

public television station WUNC-TV, to discuss how to best coordinate efforts during the experiment. NAB also initiated a weekly conference call with the local stations, which served as a regular forum for communication and planning purposes.

Besides working with broadcasters, NAB urged electronics manufacturers and retailers to be prepared for an early transition in Wilmington. Some of our recommendations included stocking store shelves with analog pass-through converter boxes and antennas and educating sales staff to accurately address consumer questions. In anticipation of a heightened demand for converter box coupons, NAB also urged the federal government to prioritize applications from the Wilmington market and improve coordination among the relevant agencies in communications to consumers. We alerted property management companies overseeing thousands of vacation homes and rental properties in Wilmington, many of which had to be upgraded by September.

Early research in Wilmington revealed significant viewer confusion about the early switch date, and 62 percent of antenna users reported receiving some television programming from stations outside of the DMA, which meant they would be subject to viewing public service announcements proclaiming two different transition dates. As a result, NAB devoted significant resources and expertise toward raising consumer awareness. A week after the test was announced, NAB commissioned the first survey of Wilmington-area residents to gauge consumer awareness of the DTV transition nationally and locally. While 89 percent of Wilmington-area residents reported being aware of the television industry's switch to digital broadcasting, the survey showed there was still confusion about the date. The findings were released in June and covered widely by print and broadcast reporters.

NAB also purchased www.dtvwilmington.com, an easy-to-remember Web address that links to the FCC site, which local broadcasters used to link to DTV information. Additionally, we produced Wilmington versions of our DTV action spots alerting residents to the new deadline and actions they must take to prepare for the switch to DTV. The spots, which were distributed in July and August, counted down the days until the September 8 switch.

As members of NAB's DTV Speakers Bureau, eight speakers from Wilmington stations educated local citizens about DTV at local venues. The bureau is made up of more than 1,100 television station representatives from across the country, who have volunteered to give presentations to civic groups and other organizations interested in learning about the DTV transition. NAB organized a robust schedule of DTV Speakers Bureau events in Wilmington and its surrounding counties. Among other events, these speakers were joined by the FCC and industry retailers at a DTV expo hosted by WECT-TV at the Coastline Convention Center in downtown Wilmington on August 28.

Much like NAB's national campaign, the efforts in Wilmington included targeted outreach to populations disproportionately affected by the transition, such as minorities and seniors. About 1,750 African-American churches in Wilmington and across North Carolina helped to educate their congregants on DTV as part of our joint education campaign with the National Black Church Initiative. Churches distributed informational DTV literature and trained volunteers to help elderly and disabled members fill out coupon applications and install converter boxes.

Additionally, NAB accelerated production of its "countdown" public service announcements and made them available to Wilmington stations with a September 8 date. NAB also produced a Wilmington version of our Bob Barker DTV Action spot for

local stations, and adapted one of our national spots promoting the coupon program with the September 8 transition date.

In the final weeks leading up to the September transition, NAB also sent its DTV Road Show to Wilmington. Highly visible and interactive, one of our DTV Trekker trucks canvassed the five affected counties in the Wilmington market to make sure area residents were informed about the September 8 transition. NAB also ran print, radio and television ads to publicize the events, and helped coordinate and distribute targeted direct mail within the DMA.

The results of the test show clearly that the collective efforts of Wilmington television stations, the FCC, and NAB were a great success. Out of the 1,502 calls received by the FCC on September 8-10, only 23 were from viewers who were unaware of the switch to digital. These numbers are supported by an NAB survey taken two weeks prior to the transition date, which found consumer awareness at 97 percent and 83 percent of respondents having seen messages about the transition on television. It appears that very few Wilmington viewers lost reception due to a lack of information about the early transition to digital in the Wilmington market.

Additionally, about 50 percent of over-the-air viewers reported having seen one of the two analog shut-off tests performed by the Wilmington stations; the first on August 18 and the second on September 2. Analog shut-off tests will be a key strategy for stations to test the technical aspects of the DTV transition, but also to use as a tool for increasing viewer awareness.

A large number of callers to the FCC reported having trouble either connecting or setting up their converter boxes. NAB's survey found that among those who purchased a converter box, 75 percent had no problem and 25 percent had an initial problem. Of

those with an initial problem, 14 percent were able to resolve the problem, while 11 percent could not resolve it.

III. Broadcasters Have Made a Voluntary Commitment Intended to Minimize Any Possible Confusion Over the February 17th Transition Date

As one more added precaution, the NAB Board of Directors adopted a resolution establishing a four-week period surrounding the DTV transition (February 4-March 4, 2009) during which broadcasters voluntarily agree not to remove their signals from MVPDs. The NAB resolution enjoys the widespread support of numerous broadcast stations, including NAB members and non-members. The number of supporters is growing daily, and the current tally stands at approximately 80 percent of broadcasters.

For the most part, our partners in the multichannel video programming distributor (MVPD) industry are also doing as much as they can to ensure a smooth transition. However, a handful MVPDs are attempting to make an unfounded link between the transition and negotiations for the right to carry broadcast signals. They are asking the FCC to suspend broadcasters' rights to authorize the use of their signals—a so called "quiet period"—starting no later than October 1, 2008, which is over four months before the February 2009 transition date. Grant of such a request is contrary to the letter and spirit of the marketplace negotiations envisioned in the Communications Act, harmful to broadcasters and the viewing public, and unnecessary as a practical matter.

Marketplace negotiations have worked for five rounds of cable elections and three rounds of direct broadcast satellite elections. Although thousands of retransmission consent agreements have been negotiated, not one has resulted in a finding of a broadcaster failure to negotiate in good faith. Although carriage negotiations are sometimes contentious, they have only very rarely resulted in a broadcaster not

making its signal available to a distributor for any period of time. Thus, petitioners' request is unfounded.

In the very rare instances where past carriage disputes have made broadcast signals briefly unavailable, affected viewers have been inundated with information about the dispute by MVPDs and local news outlets, so it is unlikely that there will be any customer confusion. At the same time, DTV consumer education efforts will peak in January and February and certainly resources could be targeted to retransmission consent disputes to minimize even further the possibility that any customer confusion may arise.

Broadcasters believe strongly that the "two-week before and two-week after" period will be more than enough to ensure that consumers do not confuse other events with the DTV Transition. Thus, there is no need to alter the well-functioning retransmission regime to prevent DTV-related consumer confusion. We should all continue to work toward meeting the challenges of viewer preparedness as well as operational and technical preparedness as we approach this "home stretch."

IV. Conclusion

In conclusion, I emphasize, again, that no one has a greater stake in a successful DTV transition than we, as broadcasters. We assure you that broadcasters are sparing no effort to fully inform our viewers about the transition. Our interests are aligned with yours. We fully understand the timelines and importance of our mutual challenge. We don't want to lose a single viewer in the transition, and we do not intend to.

I leave you with four final thoughts: One, broadcasters are fully committed to ensuring that no consumer—no viewer anywhere—is left uninformed about the DTV transition; Two, broadcasters are fulfilling their responsibility for a massive, unprecedented on-air consumer DTV information and education campaign; Three, we have demonstrated that we are ready and willing to work in partnership with Congress and the FCC on new ideas and efforts to ensure that the transition on February 17, 2009, is seamless; And four, we urge Congress to protect, for consumers, the existing retransmission consent regime, because placing a thumb on the scales in favor of MVPDs will undoubtedly threaten the very specific and successful retransmission consent regime intended by Congress, one meant to maintain the viability of our system of free over-the-air broadcasting.

Chairman Markey, Ranking Member Stearns and members of the Subcommittee, thank you for inviting me to participate in this hearing, and I am happy to answer any questions.

Attachment A

Coalition members as of September 15, 2008

AARP
Advanced Television Systems Committee
Affinity Marketing
Alabama Broadcasters Association
Alaska Broadcasters Association
Alliance for Public Technology
Alliance for Rural Television (ART)
Alliance
American Association of People with Disabilities (AAPD)
American Cable Association (ACA)
American Legislative Exchange Council (ALEC)
American Library Association (ALA)
Archway Marketing Services
Arizona - New Mexico Cable Communications Association
Arizona Broadcasters Association
Arkansas Broadcasters Association
Arland Communications, Inc
Asian American Justice Center
Association for Maximum Service Television, Inc. (MSTV)
Association of Cable Communicators
Association of Public Television Stations (APTS)
Audio Quest
Bay Creek Communications
Best Buy
Black Leadership Forum Inc.
Broadband Cable Association of Pennsylvania (BCAP)
Broadcast Education Association
Broadband Solutions and Testing, Inc
Broadcom
Cable and Telecommunications Association for Marketing (CTAM)
Cable Telecommunications Association of New York, Inc.
Cable Television Association of Georgia
California Broadcasters Association
Call For Action
Care2
CENTRIS
Cision
Circuit City
Cisco Systems, Inc.
CNET
Coalition for Independent Ratings Services
Colorado Broadcasters Association
Communications Workers of America
Community Broadcasters Association
Congressional Black Caucus
Congressional Hispanic Caucus
Connecticut Broadcasters Association
Consumer Action
Consumer Electronic Retailers Coalition (CERC)
Consumer Electronics Association (CEA)
Consumers for Competitive Choice
Convertmy.tv
Corporation for National and Community Serviece
Corporation for Public Broadcasting
Councilmember Mary Cheh's Office
Cox Communications
Crosby Volmer International
Custom Electronic Design & Installation Association (CEDIA)
DIRECTV
Disaboom
Disney
District of Columbia Office of Cable Television
DITEC
EchoStar Satellite LLC
Edison Group
Effros Communications
Electronic Industries Alliance (EIA)
Entertainment Industries Council, Inc. (EIC)
Entertainment Pulbicists Professional Society
Esperanza
Family, Career and Community Leaders of America, Inc. (FCCLA)
Federal Citizens Information Center
Federal Communications Commission
Florida Association of Broadcasters
Future Farmers of America
Georgia Association of Broadcasters
Goodwill Industries International
Greater New Orleans Broadcasters Association (GNOBA)
Hawaii Association of Broadcasters
Heat Surge, LLC
High Tech DTV Coalition
Hispanic Information & Telecommunications Network
Home Theater Specialists of America (HTSA)
Homes.org
IBM
Idaho State Broadcasters Association
Illinois Broadcasters Association
Indiana Broadcasters Association
Information Technology Industry Council (ITIC)
Institute of Real Estate Management
ION
Iowa Broadcasters Association
Iowa Cable & Telecommunications Association, Inc.
Isis Video and Editing Services
KA6UTC

Attachment A

Coalition members as of September 15, 2008

Kansas Association of Broadcasters
KCET
Kentucky Broadcasters Association
KGTV
Kinsella/Novak Communications, LLC
K Mart
KTSF
Latinos in Information Sciences and Technology Association
Latino Literacy Now
Leadership Conference on Civil Rights (LCCR)
League of United Latin American Citizens
LG Electronics
Louisiana Association of Broadcasters
Louisiana Cable & Telecommunications Association
Maine Association of Broadcasters
Maryland/D.C./Delaware Broadcasters Association
Massachusetts Broadcasters Association
Meals on Wheels Association of America (MOWAA)
Media Freedom Project
MediaTides LLC
Metropolitan Washington Council of Governments
Mexican American Opportunity Foundation
Michigan Association of Broadcasters
Microtune
Minnesota Broadcasters Association
Minority Media Telecommunications Council
Mississippi Association of Broadcasters
Missouri Broadcasters Association
Mitsubishi Digital Electronics
Mobile Media Enterprises
Montana Broadcasters Association
NAACP
National Alliance of State Broadcast Associations (NASBA)
National Asian Pacific Center on Aging
National Association of Area Agencies on Aging
National Association of Black Journalists (NABJ)
National Association of Black Owned Journalists
National Association of Broadcasters (NAB)
National Association of Consumer Agency Administrators (NACAA)
National Association of Counties (NACo)
National Association of Hispanic Journalists
National Association of Latino Elected Officials
National Association of Latino Independent Producers
National Association of Manufacturers (NAM)
National Association of Neighborhoods
National Association of Regulatory Utility Commissioners
National Association of Residential Property Managers (NARPM)
National Association of Telecommunications and Advisors (NATOA)
National Black Church Initiative
National Cable & Telecommunications Association (NCTA)
National Coalition of Black Civic Participation
National Consumer's League
National Consumer Voice for Quality Long-Term Care (NCCNHR)
National Council of LaRaza
National Education Association
National Fair Housing Alliance
National Grange
National Grocers Association (NGA)
National Hispanic Media Coalition
National Newspaper Publishers Association News Service
National Organization of Black County Officials
National Organization for Youth Safety
National Religious Broadcasters (NRB)
National Urban League (NUL)
Native American Journalists Association
Navigant Consulting, Inc.
National Council on Aging
Nebraska Broadcasters Association
Nevada Broadcasters Association
New Hampshire Association of Broadcasters
New Jersey Broadcasters Association
New Mexico Broadcasters Association
New Tang Dynasty Television
New York State Broadcasters Association
Nielsen Company
North American Retail Dealers Association (NARDA)
North Carolina Association of Broadcasters
North Dakota Broadcasters Association
Northern Virginia Resource Center for Deah and Hard of Hearing Persons
Ohio Association of Broadcasters
Ohio Cable Telecommunications Association (Stoddard)
Oklahoma Association of Broadcasters
Oregon Association of Broadcasters
Panasonic Corporation of North America
PCIA -- The Wireless Infrastructure Association
Pennsylvania Association of Broadcasters
Philips Consumer Electronics
Piedmont Triad Council of Governments
Plasma Display Coalition
Public Broadcasting Service (PBS)
Public Cable Television Authority
Qualcomm
RADD
RadioShack

Attachment A

Coalition members as of September 15, 2008

Rainbow PUSH Coalition
Raycom Communications
RCA/Audio Video
Retail Industry Leaders Association
Retirement Living TV
Rhode Island Broadcasters Association
Rural Coalition
Samsung Electronics
Sanyo Fisher
Sanyo Manufacturing Corporation
Satellite Broadcasting and Communications Association (SBCA)
Sears
SendTech, Inc
Signals Unlimited
Society of Motion Picture & Television Engineers
South Carolina Broadcasters Association
South Dakota Broadcasters Association
South Dakota Public Broadcasting
Southern Growth Policies Board
Special Olympics
Target
Telecommunications Industry Association (TIA)
Tennessee Association of Broadcasters
Terrestrial Digital
Texas Association of Broadcasters
Texas Cable & Telecommunications Association
Texas Instruments
Texas Metro Data & Marketing
THAT Corp.
Thomson
TitanTV Media
U.S. Chamber of Commerce
United Front Media
Universal Remote Control
Utah Broadcasters Association
Verizon
Vermont Association of Broadcasters
Virginia Association of Broadcasters
Voices of September 11th
Wal-Mart
Washington State Association of Broadcasters
Washington Urban League
WBAL
WHUT
Wineguard Company
Wisconsin Broadcasters Association
Wisconsin Cable Communications Association
WLMB TV40
WUSA
Wyoming Association of Broadcasters
Zenith Electronics LLC

Attachment B

Roadshow Cities...as of 9/16 (blue from 4/1 to 6/30, red from 6/30 through 9/16)

Albany, NY
Ann Arbor, MI
Antioch, CA
Atlanta, GA
Bakersfield, CA
Baltimore, MD
Birmingham, AL
Boston, MA
Burgaw, NC
Casa Grande, AZ
Carl Junction, MO
Carthage, MO
Cedar City, UT
Charlottesville, VA
Chattanooga, TN
Chesapeake, VA
Chicago, IL*
Claremore, OK
Clarence, NY
Clinton Township, MI
Collinsville, OK
Columbus, OH
Comstock Park, MI
Columbus, OH
Davenport, IA
Dearborn, MI
Denver, CO
Des Moines, IA
Detroit, MI
Dothan, AL
Dubuque, IA
El Centro, CA
Elizabethtown, NC
Fairlea, WV
Fresno, CA
Goshen, IN
Harrisburg, PA
Hidalgo, TX
Huntsville, AL
Hutchinson, KS
Indianapolis, IN
Jackson, TN
Joplin, MO
Kalamazoo, MI
Kissimmee, FL
Lansing, MI
Las Vegas, NV
Layton, UT
Leland, NC

London, OH
Los Angeles, CA
Loves Park, IL
Lynwood, CA
Madison, WI
Maplewood, MN
Maplewood, NJ
Marquette, MI
Memphis, TN
Mercedes, TX
Mesa, AZ
Montgomery, AL
Monticello, IA
Nashville, TN
Noel, MO
Neosho, MO
New York, NY
Newark, NY
Novi, MI
Oakland, CA
Oklahoma City, OK
Palm Springs, CA
Phoenix, AZ
Poteet, TX
Richmond, VA
Roanoke, VA
Sacramento, CA
Salinas, CA
Salt Lake City, UT
San Antonio, TX
San Bernardino, CA
San Diego, CA
San Francisco, CA
San Jose, CA
Secaucus, NJ
Shallotte, NC
Shreveport, LA
Sioux City, IA
Springfield, IL
St. Charles, MN
St. George, UT
St. Louis, MO
St. Paul, MN
Superior, WI
Tampa, FL
Timonium, MD
Tulsa, OK
Universal City, CA
Visalia, CA
Washington, DC
Watertown, NY
Webb, MO
West Allis, WI
Whiteville, NC
Wilmington, NC
Winter Haven, FL

Ms. HARMAN. Thank you very much. Our fourth witness, Kyle McSlarrow, is President and Chief Executive Officer of the National Cable & Telecommunications Association, NCTA, the trade association representing the nation's largest cable operators. Mr. McSlarrow also served as a deputy secretary of the Department of Energy, and I would like to welcome back our chairman of the subcommittee, Mr. Markey, who has chosen to stay down there in the corner. He is very modest and shy. And, Mr. McSlarrow, you are now recognized to summarize your statement in 5 minutes.

STATEMENT OF KYLE MCSLARROW, PRESIDENT AND CEO, NATIONAL CABLE AND TELECOMMUNICATIONS ASSOCIATION

Mr. MCSLARROW. Thank you, Mr. Chairman, distinguished members of the committee. I think I can safely say I am glad to be here talking about the DTV and not energy.

Ms. HARMAN. You are the only one who feels that way, Mr. McSlarrow.

Mr. MCSLARROW. Well, it is because I knew I was on the hot seat all those other times. In many respects, I think the industry cooperation to educate consumers to make available the information they need to know about the tools that they should be equipped with to manage the transition has gone very well. And I should say that we are very pleased. I want to compliment David Rehr and other leaders in the industry for what they have done to insure that cooperation has moved forward. But I do want to flag what is potentially a coming storm, which is called re-transmission consent. And I know on the first panel there was an exchange of views about this but I think it is important to understand the context. Re-transmission consent was added to the legal landscape. In 1992, a time when the marketplace was very different, and by and large over the last 15 years most broadcasters, most cable and satellite operators have managed to work through that in a way that there is a rough equivalence of value being exchanged that consumers have been well served.

But is in increasingly clear with a new election coming up on October 1 in terms of broadcasters electing to be must carry or pursuing re-trans that with the economic pressures on the broadcasting side with more and more equity or hedge funds investing in the broadcasting sector looking for a quick buck as opposed to a long-term view that there is going to be greater tension. And it is important to point out that re-transmission consent is not a free market negotiation. Every broadcaster walks into a room knowing that at the very least they can insist on must carry carriage or if they feel up to it they can choose to pursue re-transmission consent negotiations so it is a classic "heads I win, tails you lose" proposition.

When they enter the negotiations, they then know that every cable customer has to, by law, buy a package with all the broadcast stations in it before they can buy any other cable network, including premium networks, and the networks know and the broadcasting station groups know that you can't as a cable operator or a satellite operator go out and negotiate for another signal with similar or identical program because network non-duplication and syndicated exclusivity rules prevent you from carrying an out of

market signal which competes with what is essentially an exclusive product in a local market. So it is not a free market negotiation, and as I say the overwhelming number of cases I am confident will probably be worked out at the bargaining table, but it is clear that increasingly there is tension, and if you go by public statements from some broadcasters there is a desire to ratchet up dramatically in some cases 500 percent the cost of those signals that would be carried by the consumers.

Now this is relevant in the short term to the digital transition because most of the re-trans agreements will expire around December 31 of this year, and so we have been having conversations with friends of the broadcasting industry about a quiet period, but the problem is if you are putting consumers to the choice of either, A, paying a higher bill the cable operator insists on protecting the interest of the consumer, then the threat is going to be that a broadcaster is going to pull the signal. And when are they going to do that? Well, they are going to do that in January, the precise time that NAB's voluntary quiet period doesn't cover so you have this odd lapse of time where the food fights are undoubtedly going to break out where consumers have two choices, pay a higher bill or lose the signal.

So I would urge this committee to make clear in unmistakable terms in the short term to broadcasters around the country that the digital transition is not business as usual. Cable operators, satellite operators are carrying—in the case of cable operators were carrying must carry stations in a dual format which we didn't think we were required to do but we voluntarily agreed to do that. It was incorporated into an FCC order. Everybody is leaning forward. This is not the time to confuse consumers about what is happening.

And I should hasten to add that this isn't about leverage in the market place. I heard you, Mr. Gonzalez, before. I agree with your point. It should be short. Whatever the deal is, whenever it is struck, it should be retroactive back to the date of the expiration of the agreement, and then I think for the committee there is a long-term challenge that we would like to work with you on reforming re-transmission consent. Thank you, Mr. Chairman.

[The prepared statement of Mr. McSlarrow follows:]

TESTIMONY OF KYLE MCSLARROW
PRESIDENT & CEO
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

on

Status of the DTV Transition: 154 Days and Counting

before the

COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET
UNITED STATES HOUSE OF REPRESENTATIVES
WASHINGTON, DC

SEPTEMBER 16, 2008

Mr. Chairman, Ranking Member Stearns and Members of the Subcommittee, my name is Kyle McSlarrow and I am President and CEO of the National Cable & Telecommunications Association. NCTA represents cable operators serving more than 90 percent of the nation's cable TV households and more than 200 cable program networks. The cable industry is also the nation's largest provider of broadband Internet access after investing $130 billion to build out a two-way interactive network with fiber optic technology. Cable companies also provide state-of-the-art digital telephone service to millions of American consumers.

On February 17, 2009, this country will embark on a dramatic change in over-the-air television. A successful transition to an all digital broadcast system will make valuable spectrum available for public safety, increase choice and competition through wireless broadband services, and deliver significant benefits to television viewers. And, as I testified in February, while this is a broadcast television transition, the cable industry has consistently committed to do its part to ensure its success in a number of significant ways.

At the outset, I would like to compliment local broadcasters, and particularly organizations like the National Association of Broadcasters (NAB) and Maximum Service Television (MSTV) who represent their interests, for their willingness to work cooperatively with us to ensure that consumers are well served leading up to and during the digital transition.

This collaboration includes the production of a handbook titled, "Cable and Broadcast Industry Coordination Reference Handbook for the Broadcast DTV Transition," which has been widely distributed to local cable operators and broadcasters. This document, authored by NCTA and MSTV, was also distributed by the American Cable Association (ACA), the National Cable Television Cooperative (NCTC), the National Association of Broadcasters and the Society of Cable Telecommunications Engineers. It provides general background information concerning

the broadcast industry's transition to digital television and a technical and operational checklist to assist television broadcasters and cable operators in preparing for coordination efforts to help facilitate the digital transition, and prepare for carriage of digital broadcast signals post transition.

Another component of this cooperation is the organization of and participation in joint cable-broadcaster coordination meetings across the country. For example, leaders of each industry appeared together this year at each other's annual conventions to stress cooperation, highlight coordination steps that should be taken, and to announce various initiatives that promote awareness of both the transition and steps consumers can take to get ready. In addition, NCTA and MSTV, with the support of ACA, NCTC, and state cable and broadcaster associations, have held joint meetings in Massachusetts, Michigan, Ohio, Texas, Oregon, West Virginia, and at the North Central Show, a regional cable meeting which includes representatives from Minnesota, North Dakota, South Dakota, and Iowa. The purpose of these meetings has been to bring together all the key players at the local level to work through the technical and logistical issues that could arise as this transition takes place. In addition, three national webinars have been held that were widely attended by cable operators and broadcasters all across the country. Weekly coordination conference calls take place with NCTA, MSTV, ACA, NCTC and NAB to discuss outstanding issues.

And I am pleased to report that in Wilmington, North Carolina, last week cable customers enjoyed a seamless transition when the local broadcasters switched early to a digital-only format. Based on reports from our member companies operating in Wilmington, the switch went smoothly and cable service was not disrupted. A great deal of credit is due to Time Warner

Cable and Charter Communications, as well as the local broadcasters, for working cooperatively to ensure the success of this early transition.

Mr. Chairman, from the very start the cable industry committed to help lead, not just to participate in, a nationwide consumer campaign to alert all Americans about the digital transition and to educate consumers about the tools available to help manage the transition. Together with the NAB, the Consumer Electronics Association (CEA), consumer retailers, public broadcasters, and other key groups, NCTA is proud to be a founding member and a Steering Committee participant of the DTV Transition Coalition established a year ago. Membership in the full Coalition has grown to more than 200, including non-profit groups, trade associations, representatives of government agencies, and a wide variety of consumer groups.

Last September the cable industry launched *Get Ready for Digital TV*, an 18-month multimedia consumer education initiative designed to inform cable customers and non-cable viewers about the broadcasters' DTV transition and how to ensure continued service to analog television sets after the transition. The centerpiece of this *Get Ready for Digital TV* initiative is a substantial commitment by the cable industry to provide $200 million in commercial advertising time to air public service announcements (PSAs) about the digital transition. To date, NCTA member companies have already reported airing these PSAs in commercial airtime valued at more than $151 million and we will more than meet our commitment.

As of today, eight distinct video PSAs have been produced and created by our industry in a variety of versions and lengths. These have been distributed to cable operators and programming networks by NCTA and the Cable & Telecommunications Association for Marketing (CTAM), along with media plans and guidance for their use. And to reach as many

Americans as possible, these PSAs, many of which were made in consultation with members of the DTV Transition Coalition, are closed captioned and produced in both English and Spanish.

In addition, with NCTA's encouragement, several of our member companies have created their own PSAs appropriate for their individual audiences and customer demographics. And several cable programmers, working in collaboration with CTAM, are currently producing customizable PSAs featuring network talent for use by cable operators this fall.

Beyond running PSAs, cable's commitment under the *Get Ready for Digital TV* initiative embraces a wide range of other consumer education efforts. The two industry websites, www.GetReadyForDigitalTV.com and www.preparateparatvdigital.com, launched in September 2007, explain in clear and concise language the reasons for the transition and its benefits. They also provide consumers with useful information to help them prepare for the transition should they need to take action and include an extensive list of sources of additional information, including links to the NTIA and FCC websites. Also, NCTA's website, www.ncta.com, has become a major portal to a vast array of consumer education information about the transition. The NCTA site was reconfigured to prominently feature links to websites from the FCC, NTIA, the TV Converter Box Coupon Program, and the DTV Transition Coalition. Direct links to the NCTA sites identified above provide users easy access to additional informational websites from the NAB, CEA and the AARP.

NCTA has also created and distributed a customer communication "tool kit" to all of our companies (www.ncta.com/dtvtransitionindustrytoolkit). The kit includes: invoice messages to be included on billing statements; electronic messages for digital cable boxes; on-screen scrolls for local origination channels; telephone "on-hold" messaging for customer call centers; sample emails to be sent to broadband customers; and website "banners" for MSO and network

websites. This website toolkit also enables users to view NCTA's PSAs and an informational video about the digital transition produced by CEA.

We are also in the process, in collaboration with CTAM, of creating a longer-form video for use on cable's "on-demand" platform to explain the DTV transition to cable customers. Additionally, several "radio media tours" are being planned which will place DTV transition experts on both news and talk radio stations around the country, and NCTA is funding work by more than a dozen consumer groups and grassroots organizations with varied memberships and constituencies to help spread the word as widely as possible that the transition is coming.

In addition to cable's extensive education initiative, for several years cable operators have worked with this Committee to find a compromise solution to address the carriage of commercial must carry stations after the digital transition. Despite cable's firm and long-held view about the constitutional infirmities of a government-mandated regime that requires cable operators to carry all must carry broadcast stations in both digital and analog formats, we committed to this Committee that cable would provide a seamless transition for all of its consumers.

As pointed out in my testimony six months ago, the Commission adopted a must carry Order last September that requires dual carriage and in many respects mirrors the three year carriage commitment we made to this Committee. That Order, however, left open the question of how to protect small cable systems from the burdens imposed by this dual carriage obligation. I am pleased to report that the Federal Communications Commission recently and unanimously took action to provide small cable systems very necessary relief from the significant cost and capacity burdens that this dual must carry requirement would have imposed. We appreciate the support for that exemption expressed by so many Members of Congress, especially members of

this Committee. Cable operators are committed to making the nation's broadcast digital TV transition a success and this relief will help ensure that all cable customers in large and small communities will continue to be able to view broadcast signals after February 17, 2009.

Mr. Chairman, one additional circumstance, however, could disrupt access to some broadcast signals and exacerbate customer confusion during the digital transition. Under retransmission consent rights which Congress granted broadcasters in the 1992 Cable Act, commercial television broadcasters (who choose not to exercise their mandatory carriage rights) can opt to negotiate over carriage of their stations. On December 31st of this year, a substantial number of retransmission consent agreements will expire. Absent an agreement with a broadcaster choosing retransmission consent, a cable operator is unable to lawfully retransmit the broadcast station and is forced to take the station off the cable system because it lacks consent. If recent history is any guide, there is a significant risk that some stations covered by existing agreements could go dark in January, just ahead of the DTV hard date on February 17th, as cable operators could lose consent to carry them.

It would not serve the public interest if consumers and cable operators were forced to contend with the potential or actual loss of broadcast stations at the same time as they were preparing for the digital transition. And it would be a particularly odd result when cable operators are doing well more than they are required to ensure carriage of must carry broadcasters' signals.

It is for this reason that cable companies have raised with broadcasters the idea of agreeing to a "quiet period" beginning before the end of this year (when most of these agreements would expire) and extending for a reasonable period after the hard date to ensure that consumers are not subjected to additional confusion and disruption. NAB itself has

acknowledged that this is a very real concern, and has proposed a very brief quiet period that begins two weeks before and extends for two weeks after February 17, 2009. But the broadcasters' proposal for a voluntary quiet period that only begins *after* the agreements actually expire, or which is too brief to preclude potentially confusing messages about broadcast carriage during the time of the actual DTV transition, represents the illusion of a commitment and does not actually prevent the very potential problem we have all identified.

We believe that all of the industries with a stake in a successful transition should go the extra mile to make sure it is successful. Temporarily foregoing the right to withdraw retransmission consent in order to preserve stability and certainty for consumers would be a small burden for broadcasters to undertake. A meaningful quiet period proposal need not disadvantage broadcasters; any new retransmission consent agreement reached after the quiet period ends would be retroactive to the date the old agreement expired. I urge this Committee to support the notion that "business as usual" isn't good enough, given the enormous amount of attention, hard work, and resources devoted to ensuring the digital transition's success.

Chairman Markey, Ranking Member Stearns, I would like to thank you, and all the Members of this Committee who have worked so hard to keep all of focused on ensuring the transition's success. We look forward to continuing to work with this Committee as we approach the date of the transition. I would be pleased to answer any questions you may have.

Ms. HARMAN. Thank you, sir. I would just note for the panel that there is a motion to adjourn on the House floor and we will recess this hearing 5 minutes before the conclusion of that vote. It is now 10 minutes so we have time to hear from another witness, David Candelaria, who is Vice President and General Manager of Entravision Communications, a Spanish language media company. Entravision operates one of the largest Spanish language radio networks as well as the largest affiliate group of two Univision network channels. Welcome, and please summarize your testimony.

STATEMENT OF DAVID CANDELARIA, VICE PRESIDENT AND GENERAL MANAGER, ENTRAVISION COMMUNICATIONS CORPORATION

Mr. CANDELARIA. Thank you and good morning. I have worked in the broadcasting industry for nearly 20 years and have spent nearly 40 years of my life living in El Paso, Texas. What I particularly want you to know is how important it is that the Congress pass the Border Fix Act legislation. Each and every member of Congress from the border region supports the legislation. While they may be Democrats, support of the legislation is bipartisan, and we have heard from other Republican members that they are behind the Act as well.

The reason I care so much about the bill is as our Congressman Silvestre Reyes has said that unless we do so that tens of thousands of families and individuals in our region may be left behind. There is a fact of life in the Hispanic community along the border that you should be aware of. In El Paso, for example, approximately 45 percent of the Hispanic population is Spanish language dominant. That is 310,000 people, approximately. When Spanish speakers in El Paso and along the border need information, they turn to Spanish language television. Our television station, KINT, who share the evening news, is six times that of the ABC affiliate, achieved that success by consistently providing quality news and vital information. Unless this Congress passes the Border Fix Act, our Spanish-speaking viewers will simply tune into Mexican television.

As I have spoken about the Act with various parties, a number of questions have been posed to me, and I would like to address them. First, I have been asked is this not the best time for viewers to transition since we have the educational efforts and the converter box subsidy. While it is a good time, you need to be aware that there is a cultural resistance that will prevent it from being completed at this time. Second, I have been asked why we don't seek to educate our Hispanic viewers to convert. In fact, our station has helped achieve in El Paso coupon orders and redemptions at 240 percent of the national rate, yet this is still not enough.

Third, I have been asked why should not expect our young people to press their parents to acquire digital sets in order to be able to watch the English language networks. The Nielsen numbers prove it. In El Paso between my station, KINT, and the most popular station in the market, Mexico's XHJC, we take 30 percent of the viewing in prime time. The NBC affiliate, in contrast, takes just 4 percent in prime time, which I believe represents the English language population in the market. Fourth, I have been asked why

would 4 years help if I am worried about getting Hispanic viewers to transition. The reason is simple. We just need more time to persuade Hispanics to transition and to acquire the digital receivers.

Fifth, I have been asked whether this sends the wrong message to other broadcasters who have invested in the transition. Now we have all invested in the transition, and to continue the analog signal is simply optional. Sixth, I have been asked whether the legislation will prevent the recovery of the 700 megahertz spectrum so that it can be used by wireless and public safety purposes. The answer is a definite no. We have determined and the FCC has confirmed to the Senate that there is no impact on any proposed 700 megahertz user should the Congress pass this legislation. Finally, I know that you will hear from English language broadcasters as to why the Act is a mistake. However, these are the very same broadcasters who readily admit that dominant Hispanics do not watch their stations anyway.

This testimony will be in the great tradition of the broadcast community that it has resulted in our poor reputation before the public sector. If there is a legislative or regulatory proposal that would maintain or promote competition broadcasters rush to stifle it with arguments claiming that the sky is falling. In fact, my English language competitors view the digital conversion as their opportunity to grab my business. Their view is that if Hispanics migrate to Mexican stations, the share of domestic English language stations will increase. This translates to money.

All I can say is that the opinion of our Congressman and local leaders such as Mayor Cortez of McAllen, State Representative Veronica Gonzalez of the Rio Grand Valley, who all support the legislation, should weigh more heavily on the scale than my self-interested competitors. In summary, I urge you to consider that neither education, more coupons, more converter boxes, or visits from the FCC will convince the great number of Spanish speaking population along the border to transition when they have a clear alternative available. I am pleased that Hurricane Ike did not hit the border, but I worry that next year if there is a hurricane that hits the Rio Grande Valley and then El Paso how the word will get out if domestic Spanish language television stations are not transmitted in analog because we cannot rely on Mexican competitors. So as to protect the Spanish speakers along our border, I urge you to enact this legislation before this Congress recesses. I am prepared to answer any questions you may have.

[The prepared statement of Mr. Candelaria follows:]

TESTIMONY OF

MR. DAVID CANDELARIA

VICE PRESIDENT AND GENERAL MANAGER

ENTRAVISION COMMUNICATIONS CORPORATION

EL PASO, TEXAS

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON ENERGY AND COMMERCE

SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET

HEARING ON

"STATUS OF THE DTV TRANSITION: 154 DAYS AND COUNTING"

SEPTEMBER 16, 2008

Good Morning. Chairman Dingell, Chairman Markey, Ranking Member Barton, and Ranking Member Stearns, my name is David Candelaria. I am employed as the Vice President and General Manager of the Spanish-language radio and television stations that Entravision Communications Corporation owns and operates serving El Paso, Texas. I have worked in the broadcasting industry for nearly 20 years and have spent nearly 40 years of my life living in El Paso.

Testifying before a Congressional Committee is a far cry from the work I do on most days which is to deal with what programming to broadcast on our two television and four radio stations and how to better sell advertising in order to pay the bills. I was asked by our senior management to testify before you based on my knowledge of the Hispanic community and how the digital transition will impact the unique part of this country that we call the border region. I was told to "tell it like it is" and I will try to do so.

What I particularly want you to know is how important it is that the Congress pass the Border Fix Act legislation. In the Senate, the two Republican Senators from my State and a Democratic Senator from California sponsored and secured the unanimous approval of the legislation. Your colleague on this Subcommittee, Ms. Solis, introduced the legislation in this Chamber and she is supported by your other colleagues on this Subcommittee, Messrs. Gonzalez and Green from Texas and Ms. Capps from California. Each and every member of Congress from the border region supports the legislation. While they may be Democrats, support of the legislation is bi-partisan and, Mr. Stearns, we have heard from other Republican members that they are behind the Act as well.

The reason I care so much about this bill is as our Congressman in El Paso, Silvestre Reyes, has said, that unless we do so that "tens of thousands of families and individuals in our region may be left behind." They will be left behind because they can't or won't be able to receive digital broadcasting transmissions on the television receivers in their homes. However, those receivers will not be dark since Mexican television stations will continue to operate in the analog mode and the station owners have made the Spanish-speaking public aware of that.

There is a fact of life in the Hispanic community along the border that you should be aware of. In El Paso, 45% of the population is Spanish-dominant, 70% of the overall population is Spanish-speaking, and 94% of the population possesses knowledge of the Spanish language. When Spanish-speakers in El Paso and along the border need information they turn to Spanish-language television. Our television station, KINT, whose share of the evening news is six times that of the ABC affiliate, achieved that success by consistently providing quality news, information, weather, public safety messages such as AMBER alerts and EAS activiations, and border crossing warnings, and, I am sure you appreciate, political advertising for our viewers. This is in direct contrast to Mexican stations that provide a little Mexican news and not much more. Recently, when we had flooding in El Paso after Hurricane Dolly you would never have known that a hurricane was coming or what its potential impact was on El Paso if you watched Mexican television. And, while waiting to find out, you would have been inundated with cigarette advertising that seeks to induce the smoking habit in our children.

Unless this Congress passes the Border Fix Act, our Spanish-speaking viewers will simply tune in to Mexican television. Mexican television is a real threat to domestic Spanish language television because it provides appealing entertainment and sports programming that is well received, and not transitioning will allow Hispanics to spend more money on other things

such as food, clothing, and gas, rather than on digital converter boxes. However, not having domestic Spanish language television stations removes their primary means of obtaining information about their community and their principal connection to the greater community and the means by which they can find out what is taking place in their city, county, state and country.

As I have spoken about the Act with various parties, a number of questions have been posed to me and I would like to address them.

First, I have been asked that is this not the best time to force viewers to transition since we have the educational efforts and the converter box subsidy? While it is a good time, you need to be aware that there is a cultural resistance among U.S. citizens and resident aliens that will prevent it from being completed at this time. Along the border, Hispanics are reluctant to register with the government, and especially the federal government, whether it be to vote, to be included in the Census, or to secure a converter box. In addition, while $40.00 may not sound like a lot of money to you in this affluent and beautiful Capital, it is a lot of money to Hispanics living in some of the poorest counties in this country, where that money is needed for food, gas, and clothing.

Second, I have been asked why we don't seek to educate our Hispanic viewers to convert? In fact, our Station has helped achieve, in El Paso, coupon orders and redemptions at 240% of the national rate. Yet, this is still not enough and will not be enough in the short term given the forces of poverty, language, and the lurking presence of Mexican analog television service. What we really need is more time to keep our educational efforts up and convince Hispanic viewers that there is value in migrating to digital even though Mexican analog service is available to them.

Third, I have been asked why I should not expect our young people to press their parents to acquire digital sets in order to be able to watch the English-language networks. The simple answer is that the young people do not watch English language television. The numbers prove it: in El Paso, between my Station, KINT, and the most popular station in the market, Mexico's XHJC, we take 30% of the viewing in prime time. The NBC affiliate, in contrast, takes just 4% in prime time, which I believe represents the English-language population in the market. This is because we are culturally different from the rest of the country. Along the border, Hispanic cultural idols and sports that Hispanics relate to are readily found on Mexican television stations and the television stations of Univision and Telemundo. They are not found on NBC or CBS and that is why the English-language stations have poor ratings in the border areas.

Fourth, I have been asked why would four years help if I am worried about getting Hispanic viewers to transition? Honestly, I believe that in order to complete the transition that we will need more than four years, but I have been told that in order to win the support of certain Senators compromises had to be made and four years represented a compromise. However, I believe that over the next four years we will have much success. The reason is simple: we just need more time to persuade Hispanics to transition and to acquire the digital receivers. Also, the World Cup, perhaps the most important sporting event along the border and the World, will be coming up in 2010 and it will be in HD. This should induce many, more than any other reason, many Hispanic citizens to convert to digital.

Fifth, I have been asked whether this sends the wrong message to other broadcasters who have invested in the transition. Well, we have invested in the transition as well and have been operating in digital for quite some time for the few, if any, viewers who are digitally equipped. Further, we will have to continue to pay a power bill, of about $30,000.00 per month, for our two

analog stations. Despite this, Entravision recognizes, as a public trustee of the broadcast spectrum, that our duty is to continue to supply American citizens with programming that informs and entertains them and not to cede their viewing to a foreign country. As the legislation is drafted, nobody has to continue operating in analog, they must elect to do so and any broadcaster that wants to operate only in digital should do so.

Sixth, I have been asked whether the legislation would prevent the recovery of the 700 MHz spectrum so that it can be used by wireless and public safety purposes. The answer is a definite no. Unless a Station can operate within the new broadcast core, it cannot continue to operate in analog following February 17, 2009. The result is that the 700 MHz spectrum is available to the wireless operators who acquired it in the FCC's auctions and to public safety departments. We have determined, and the FCC has confirmed to the Senate, that there is no impact on any proposed 700 MHz user should the Congress pass this legislation.

Finally, I know that you will hear from English-language broadcasters as to why the Act is a mistake. However, these are the very same broadcasters who readily admit that Hispanics do not watch their stations. This testimony will be in the great tradition of the broadcast community that it has resulted in our poor reputation before the public sector. If there is a legislative or regulatory proposal that would maintain or promote competition, broadcasters rush to stifle it with arguments claiming that the sky is falling. In fact, my English-language competitors view the digital conversion as their opportunity to grab my business. Their view is that if Hispanics migrate to Mexican stations, the share of domestic English-language stations will increase. If their shares increase they can then promote themselves better to advertisers. All I can say is that the opinion of our Congressman, and local leaders such as Mayor Cortez of McAllen and State

Representative Veronica Gonzalez of the Rio Grande Valley, who all support the legislation, should weigh more heavily on the scale than my self-interested competitors.

In sum, with 154 days to go to the transition, I urge you to consider that neither education, more coupons, more converter boxes, or visits from the FCC, will convince the great bulk of the Spanish-speaking population along the border to transition when they have a clear alternative available. I am pleased that Hurricane Ike did not hit the border, but I worry that, next year, if there is a hurricane that hits the Rio Grande Valley and then El Paso, how the word will get out if domestic Spanish language television stations are not transmitting in analog, because we cannot rely on Mexican competitors. So as to protect the Spanish-speakers along our border, I urge you to enact this legislation before this Congress recesses.

I am prepared to answer your questions.

Ms. HARMAN. Thank you, Mr. Candelaria. I would just point out that your last argument is also an argument for clearing the 700 megahertz spectrum so we can have true national interoperable communications.

The subcommittee will now stand in recess for the shortest possible time while members who are still here go to vote. And when we return, we will begin with Mr. Kittleman for 5 minutes.

[Recess.]

Ms. SOLIS [presiding]. We would like to call the hearing back to order. Since we do have expedited votes that are coming up, we would like to hear from all our witnesses, so next I would like to introduce our witness, Mr. John Kittleman. Mr. Kittleman is the General Manager of KRGV-TV, the ABC affiliate serving the Weslaco, Harlingen, Brownsville, and McAllen areas of south Texas. Welcome, and you have 5 minutes.

STATEMENT OF JOHN KITTLEMAN, GENERAL MANAGER, KRGV-TV NEWSCHANNEL 5, KRGV-DT 5.2 LATV

Mr. KITTLEMAN. Thank you, Chairman Markey, Ms. Solis, members of the Subcommittee on Telecommunications and the Internet. Thank you for allowing me to testify today in opposition to H.R. 5435, the DTV Border Fix Act. My name is John Kittleman, General Manager of KRGV-TV, the ABC affiliate serving the Westlaco, Harlingen, Brownsville, and McAllen areas of deep south Texas. America's transition to digital is a major undertaking for government, broadcasters and the public. Thank you for your continuing commitment to make this transition as smooth as possible. A key component of a smooth transition, however, is coordination among the parties to insure that public confusion is minimized. Congress recognized this when it changed the law governing the digital transition from one which would have permitted individual television markets across the country to transition at various time spread over the course of years to the current law which sets a single, nationwide deadline of February 17, 2009, for the termination of analog broadcasts.

Unfortunately, H.R. 5435 threatens to undermine the effectiveness of a unified national transition by permitting stations in border markets to delay the transition for as long as 5 years creating tremendous public confusion. Now is not the time to delay the transition for our border markets. Converter box coupons are easily acquired on the phone and online. Converter boxes themselves are widely available in stores, over the phone and online, and all pass-through converter boxes are widely available and will allow border residents to benefit from the advanced U.S. digital services as well as to continue reception of analog signals from Mexico.

An unprecedented national and local education effort is underway and will grow substantially as we draw closer to the transition date. As broadcasters serving along the U.S.-Mexican border, we understand fully the challenge before us. However, I would ask, imagine the challenge for border markets on our own to transition to digital in 5 years. No government subsidy program. National manufacturers and retailers unlikely to produce and sell converter boxes for the border residents who have not yet transitioned. No national education program. No unified local education effort as

stations convert to digital piecemeal over 5 years. Attached to my written testimony is a letter written by 11 border market broadcasters from Brownsville to San Diego acknowledging these and similar concerns and opposing H.R. 5435.

Also of concern is the impact on educational broadcasters such as our local PBS affiliate. I spoke with Mr. Pedro Briseno, General Manager of KMBH, last week. KMBH must vacate its analog frequency, Channel 60, because the FCC has auctioned that spectrum for non-broadcast use. In addition, he indicated he cannot afford to continue to maintain analog and digital service, and explained the difficulty of obtaining replacement analog parts as the country moves to the digital platform.

Indeed, under the Border Fix Act, the date of a station's transition to digital will not be governed by a carefully choreographed public education campaign, but by the date that that station's analog equipment fails and is too expensive to repair. Despite its analog difficulties, KMBH is well positioned to embrace the digital future. Their station's digital lineup is as follows: PBS in English, PBS in Spanish, EWTN in English, EWTN in Spanish from 38.1 to 38.4, respectively. Imagine the educational opportunities for our market that will be lost if our viewers wait 5 more years to transition to digital.

Attached today is a letter from four border market PBS stations from Harlingen to San Diego stating opposition to 5435. This is all the PBS stations along the border. Congress has asked broadcasters to convert their stations to digital and our stations along the U.S.-Mexico border have risen to that challenge. We have spent millions of dollars to be digital ready on February 17. Many of us offer multiple digital channels including local weather and targeted entertainment formats to better serve our communities. In today's difficult financial environment, should Congress now add the significant financial burden to border broadcasters alone of continuing analog broadcast operations for an additional 5 years or finding themselves at a competitive disadvantage against those that do.

I would ask proponents of the bill, what will change in 5 years to make this transition any easier? We will still face the challenges of serving Spanish speaking residents, low income residents, and the elderly. What will change is that we will not have a government converter box subsidy, manufacturer and retailer support, nor a nationwide education effort. Border broadcasters will be left on their own with the massive task of educating and equipping an unknown number of analog only consumers. We ask Congress to help our border markets by assuring an abundant supply of coupons, of converter boxes, and education's efforts continue. Once again, thank you for your leadership in the transition to digital and for your consideration of these concerns.

[The prepared statement of Mr. Kittleman follows:]

Summary

Statement from John Kittleman, General Manager, KRGV-TV
To Subcommittee on Telecommunications and the Internet
Hearing on Tuesday, September 16, 2008
"Status of the DTV Transition: 154 Days and Counting"

* Testifying in opposition to HR 5435 "Border Fix Act"

* Submitting for the record a letter written by eleven (11) broadcasters from Brownsville, Texas to San Diego, California in opposition to HR 5435.

* Converter box coupons available now on the phone and on line.

* Converter boxes widely available in stores, over the phone and on line.

* Analog pass through converter boxes widely available.

* Unprecedented DTV education effort now underway.

* Delaying the transition for border broadcasters will mean in five years border broadcasters will have to transition to digital with no government subsidies, no manufacturer or retailer support and no national education campaign.

* KMBH, local PBS affiliate will be digital only and analog-only homes will not have access to 38.1 (PBS English) and 38.2 (PBS Spanish).

* Submitting for the record a letter written by four (4) PBS broadcasters from Harlingen, Texas to San Diego, CA

* Continued analog operations is a tremendous financial burden.

* HR 5435 is not voluntary if competitive market pressures force broadcasters to continue analog broadcasting.

* Nothing will change in 5 years to make this transition any easier – in fact it will only get more difficult as border broadcasters will not have government and industry support.

Testimony of John Kittleman,

General Manager, KRGV-TV, Weslaco, Texas,

Before The Subcommittee on Telecommunications and the Internet

of the House Committee on Energy and Commerce

Status of The DTV Transition: 154 Days and Counting

September 16, 2008

Chairman Markey, members of the Subcommittee on Telecommunications and the Internet.

Thank you for allowing me to testify today in opposition to HR 5435, the "Border Fix Act". My name is John Kittleman, General Manager of KRGV-TV, the ABC affiliate serving the Weslaco, Harlingen, Brownsville, and McAllen area of deep South Texas.

America's transition to Digital Television is a major undertaking for government, broadcasters and the public. As a broadcaster, I am very appreciative of the time and effort Congress is dedicating to this unprecedented endeavor, and thank you for your continuing commitment to making this transition as smooth as possible.

A key component of a smooth transition, however, is coordination among the parties to ensure that public confusion is minimized. Congress recognized this when it changed the law governing the digital transition from one which would

have permitted individual television markets across the country to transition at various times spread over the course of years, to the current law, which sets a single nationwide deadline of February 17, 2009 for the termination of analog broadcasts.

Unfortunately, HR 5435 threatens to undermine the effectiveness of a unified national transition date by permitting stations in border markets to delay the transition for as long as five years, creating tremendous public confusion.

Now is the time for all of the US broadcasting industry to bring our viewers the benefits of advanced television services. Now is not the time to delay the transition for our border markets.

Converter box coupons are easily acquired on the phone and on line. Converter boxes are widely available in stores, over the phone and on line. Analog pass through converter boxes are widely available and will allow border residents to benefit from advanced US digital services as well as to continue reception of analog signals from Mexico.

An unprecedented national and local education effort is underway and will grow substantially as we draw closer to the transition date.

As broadcasters serving communities along the US-Mexico border, we understand fully the challenge before us. We have a high percentage of over the air

homes. We serve Spanish speaking residents, low income residents, and the elderly – we understand that our markets represent a real challenge on many fronts. However, I would ask you to consider the following:

Imagine the challenge for border markets – On our own -- to transition to digital in five years:

* No government subsidy program to help defray the cost of converter boxes;
* National manufacturers and retailers unlikely to produce and sell converter boxes for the border residents who have not transitioned;
* No national education program supporting local broadcaster efforts; and
* No unified local education effort, as stations convert to digital piecemeal over a five year period.

Attached to my written testimony today for inclusion in the record is a letter written by eleven border market broadcasters from Brownsville, Texas to San Diego, California acknowledging these and similar concerns in opposing HR 5435.

Also of concern is the impact on educational broadcasters such as our local PBS affiliate KMBH. I spoke with Mr. Pedro Briseno, General Manager of KMBH, last week. KMBH must vacate its analog frequency (channel 60) because the FCC has auctioned that spectrum for non-broadcast use. In addition, he

indicated that he cannot afford to continue to maintain both analog and digital service, and explained the difficulty of obtaining replacement analog parts as our country moves to the digital platform. Indeed, under the Border Fix Act, the date of a station's transition to digital will not be governed by a carefully choreographed public education campaign, but by the date that station's analog equipment fails and is too expensive to repair. _Despite its analog difficulties, KMBH is well positioned to embrace the digital future. The station's digital line up is as follows:

38.1 PBS English

38.2 PBS Spanish

38.3 EWTN English

38.4 EWTN Spanish

Imagine the educational opportunities for our market that will be lost if our viewers wait five more years to transition to digital.

Attached to my written testimony today for inclusion in the record is a letter written by four border market PBS stations from Harlingen, Texas to San Diego, California stating opposition to HR 5435.Congress has asked broadcasters to convert their stations to digital and our stations along the US-Mexico border have risen to that challenge. We have spent millions of dollars to be digital ready on February 17, 2009. Many of us offer multiple digital channels including local

weather channels and targeted entertainment formats to better serve our communities and to fulfill the promise of enhanced digital technologies.

In today's difficult financial environment, should Congress now add the significant financial burden to border broadcasters of continuing analog broadcasting operations for an additional five years or finding themselves at a competitive disadvantage against those that do?

I would ask proponents of the bill – what will change in five years to make this transition any easier? We will still face the challenges associated with serving Spanish speaking residents, low income residents, and the elderly.

What will change is that we will not have government converter box subsidies and support. We will not have manufacturer and retailer support. And we will not have a massive, nationwide education effort. Border broadcasters will be left on their own with the massive task of educating and equipping an unknown number of analog only consumers.

We ask Congress to help our border markets rise to the digital challenge before us by assuring:

* An abundant supply of coupons;
* A sufficient supply of converter boxes (particularly the analog pass through models which will allow US consumers to receive advanced

US digital signals along with analog signals from Mexico and low power US stations and translators); and

* Education efforts that continue to provide a simple, clear, unified message to the public that the transition is happening.

Once again, thank you for your leadership in the transition to digital television and for your consideration of these important concerns.

September 9, 2008

The Honorable John D. Dingell
Chairman
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Joe Barton
Ranking Member
House Committee on Energy and Commerce
2322A Rayburn House Office Building
Washington, D.C. 20515

The Honorable Edward J. Markey
Chairman
House Committee on Energy and Commerce
Subcommittee on Telecommunications
and the Internet
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Cliff Stearns
Ranking Member
House Committee on Energy and Commerce
Subcommittee on Telecommunications
and the Internet
2322A Rayburn House Office Building
Washington, D.C. 20515

Dear Chairmen Dingell and Markey and Ranking Members Barton and Stearns:

As border broadcasters from Texas to California, we ask that you oppose H.R. 5435, the so-called "DTV Border Fix Act," and make sure that television viewers in the border region of our country enjoy the full benefits of the transition to digital with the rest of the nation in February 2009.

In a concerted effort between Congress, government agencies, broadcasters and the entire broadcast industry, extraordinary efforts have been made to transition this country from analog to digital on February 17, 2009, thereby bringing consumers advanced television service as well as clearing crucial spectrum for wireless broadband and public safety use. By allowing certain broadcasters to delay the transition for up to five years, however, H.R. 5435 threatens to put viewers along the border in a state of limbo.

Now is the time to transition for our nation's border markets. Converter box coupons are easily acquired over the phone and on-line. The converter boxes, themselves, are also widely available over the phone and on-line, as well as in stores. Retailers are assuring us of an abundant supply of converter boxes through the transition date. Converter boxes with the analog pass-through feature will allow border residents the ability to enjoy both the digital signals of U.S. broadcasters, as well as the analog signals of Mexico broadcasters.

The United States is moving to digital now and there is an unprecedented education effort occurring on the local and network broadcast levels. Imagine the difficulty for border markets -- by themselves -- to educate their viewers on a market by market basis five years from now regarding obtaining converter boxes. Moreover, the converter box coupon program will be long over by then. Coupons will no longer be available, and there is no guarantee that converter boxes will still be in stores. National manufacturers and retailers are unlikely to produce and carry the devices just for the remaining border residents who have not transitioned.

Congress has asked broadcasters to transition to digital and our stations along the US-Mexico border have risen to the challenge. We have spent literally millions of dollars to be digital ready on 2/17/09. Many of us have multiple channels including local weather channels and targeted entertainment formats to better serve our markets and fulfill the promise of enhanced digital technologies. In the difficult financial environment today, should Congress now add the significant financial burden to border broadcasters of continuing analog broadcasting operations for an additional five years?

As broadcasters serving the border regions of our country, we understand that our markets have unique challenges inherent in the DTV transition. We ask Congress to help us by assuring:

- an abundant supply of coupons,
- a sufficient supply of converter boxes (particularly the analog pass through model which will allow U.S. residents to receive US digital signals and analog signals from Mexico, as well as low power US stations and translators),
- education efforts continue at all levels.

We ask you to oppose H.R. 5435, which we believe creates an unprecedented disconnect between broadcasters and the viewers we are proud to serve along the U.S. – Mexico border.

Thank you for leading the United States' digital television transition and for your consideration of our concerns.

Darrell Brown,
McGraw-Hill Broadcasting, President
KMGH-TV General Manager
ABC and Azteca America
Denver, Colorado

Jeff Block,
KGTV General Manger
McGraw-Hill Broadcasting
ABC and Azteca America
San Diego, California

Ray Schonbak,
KSWB-TV General Manager
Tribune Broadcasting
FOX
San Diego, California

Deborah Weekes,
KECY-TV General Manager
News-Press & Gazette Broadcasting
ABC, FOX and Telemundo
Yuma, Arizona

Ralph Toddre,
Sunbelt Communications, President/COO
NBC, FOX, CW and LATV
Reno, Nevada

Paul Heebink,
KYMA-TV General Manager
Sunbelt Communications
NBC and LATV
Yuma, Arizona

Harry J. Pappas,
Pappas Telecasting Companies, Chairman & CEO
ABC, CBS, FOX, CW, Azteca America and TuVision
Reno, Nevada

Andrew Wyatt,
KSWT-TV General Manger
Pappas Telecasting Companies
CBS and CW
Yuma, Arizona

Lin White,
KDBC-TV General Manager
Pappas Telecasting Companies
CBS and MyNetworkTV
El Paso, Texas

John Witte,
KFOX-TV General Manager
Cox Enterprises, Inc
FOX
El Paso, Texas

John Kueneke,
News-Press & Gazette Broadcasting, President
ABC, NBC, FOX, CW, LATV and Telemundo
St. Louis, Missouri

Kevin Lovell,
KVIA-TV General Manager
News-Press & Gazette Broadcasting
ABC, CW and LATV
El Paso, Texas

Steve Pruett,
Communications Corporation of America, President
NBC, FOX, CBS and CW
Lafayette, Louisiana

Sheldon Galloway,
White Knight Broadcasting, Sr. Vice President
NBC, FOX, CBS and CW
Lafayette, Louisiana

Gary Sotir,
KTSM-TV General Manager
Communications Corporation of America
NBC
El Paso, Texas

Bill Jorn,
KVEO-TV General Manager
Communications Corporation of America
NBC
Brownsville, Texas

John Kittleman,
KRGV-TV General Manager
Mobile Video Tapes, Inc
ABC and LATV
Weslaco, Texas

Richard Manship,
Mobile Video Tapes, Inc, President and CEO
ABC and LATV
Weslaco, Texas

September 12, 2008

The Honorable John D. Dingell
Chairman
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Joe Barton
Ranking Member
House Committee on Energy and Commerce
2322A Rayburn House Office Building
Washington, D.C. 20515

The Honorable Edward J. Markey
Chairman
House Committee on Energy and Commerce
Subcommittee on Telecommunications
and the Internet
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Cliff Stearns
Ranking Member
House Committee on Energy and Commerce
Subcommittee on Telecommunications
and the Internet
2322A Rayburn House Office Building
Washington, D.C. 20515

Dear Chairmen Dingell and Markey and Ranking Members Barton and Stearns:

Border broadcasters from Texas to California, recently sent a letter to you, in opposition of H.R. 5435, the so-called "DTV Border Fix Act." Since the original letter, they have also gained support of public broadcasters. We would like to officially express our support of the commercial network broadcasters' efforts and go on record in opposition of H.R. 5435.

Doug Myrland,
General Manager
KPBS TV
San Diego, California

Glen T Cerney,
Director of University Broadcasting
KRWG FM/TV
Las Cruces, New Mexico

Craig Brush,
President and General Manager
KCOS TV
El Paso, Texas

Pedro Briseño
President and CEO
KMBH TV
Harlingen, Texas

Ms. SOLIS. Thank you. Our next witness is Mr. Andrew Setos. Mr. Setos is the President of Engineering for Fox Group. He is the Senior Technology Strategist for the company with oversight of engineering for all the Fox divisions. He is also a Fellow of the Society of Motion Picture and Television Engineers. You have 5 minutes, and thank you for coming.

STATEMENT OF ANDREW G. SETOS, PRESIDENT, ENGINEERING, FOX GROUP

Mr. SETOS. Thank you, Madam Chairwoman. My name is Andrew Setos. I am President of Engineering of the Fox Group, and I thank you for inviting me to participate here today. As we approach the deadline for digital transition, Fox is incredibly excited about the many benefits that digital television will bring to the American public. We have been working diligently to prepare our network, our own stations, and our affiliates for this important transition from analog to digital, and we are on schedule. From the beginning, Fox has been a leader in the digital TV build out, in the creation and distribution of high definition programming, and in the effort to educate consumers on how to prepare for the digital transition.

To that end, Fox has aired more than 38,000 public service announcements on its own stations. I would like to focus on one issue that is vital to the long-term success of local broadcast television, the broadcast flag. The flag is a descriptor that broadcasters may imbed in a television program that signals that the program is not to be indiscriminately redistributed. Currently, there is no requirement that any television product respond to the broadcast flag. Local broadcasters are required by law to provide their content in the clear. This means that high value content like the Super Bowl, the World Series, The Simpsons, and American Idol is not technologically protected against indiscriminate redistribution. Other platforms, such as cable, satellite, telephone companies, and Internet distributors have already spent millions on the design, deployment, and maintenance of increasingly sophisticated technology for content protection. By contrast, local broadcasters are unable to offer any protection.

This imbalance threatens the long-term viability of local broadcasting, which will lose high value content to platforms that offer technological protections. The broadcast flag is the best way to prevent this serious threat to the future of free TV and we therefore strongly urge Congress to pass legislation that would authorize the FCC to adopt the broadcast flag rule. The digital revolution has created the opportunity for the theft of content on an unprecedented scale. The formerly burdensome and time-consuming process of uploading high definition video content has become easy to accomplish. Millions of users of peer-to-peer applications upload and download copies of broadcast television shows stripped of their commercials, thus putting local television at risk.

Why? Because local broadcast TV cannot exist without advertising revenue, which is determined based on the size of the broadcast audience that is exposed to those advertisements. Fewer local broadcast viewers translate into less advertising revenue. If our revenues drop because of content theft, local broadcasters will no

longer be able to compete with other distribution platforms for high value content. This, in turn, means that people will no longer be able to watch their favorite shows or national sporting events from their local broadcasters for free. And without high value content, local broadcasting will struggle to survive.

The demise of local broadcast stations would be devastating for tens of millions of Americans for whom local broadcast stations are the sole source of news and entertainment. But even for people who have cable or satellite, local broadcast stations are the only source of televised local news, local political races, local community affairs, local sports, local traffic, and local weather reports. These include lifesaving emergency weather updates like those we are doing around the clock on our Houston station, KRIV, as Hurricane Ike devastated Texas. Local broadcast television, free to the public, is uniquely American.

The broadcast flag is the only solution to protect against the indiscriminate redistribution of local broadcast content while at the same time protecting the television viewing experience. With the broadcast flag, people will continue to enjoy the ability to make multiple copies of their favorite television shows. They will continue to enjoy the flexibility of their home network, and they will continue to enjoy the features of every digital TV product that they have purchased to date.

In conclusion, the broadcast flag will have no impact on the American public's legitimate enjoyment of broadcast television while at the same time will help protect the future of free, local television. Thank you once again for the opportunity to address this important matter. I would be pleased to answer any questions.

[The statement of Mr. Setos follows:]

Before the House Commerce and Energy Subcommittee on Telecommunications and the Internet
Testimony of Andrew Setos
President of Engineering
Fox Entertainment Group

September 16, 2008

Good morning Chairman Markey, Ranking Member Stearns, and Members of the Subcommittee. My name is Andrew Setos, and I am the President of Engineering for the Fox Group. Thank you for inviting me to participate in this hearing.

As we approach the deadline for the digital transition, Fox is incredibly excited about the many benefits that digital television will bring to the American public. We have been working diligently to prepare our network, our owned stations, and our affiliates for this important transition from analog to digital, and we are on schedule. From the beginning, Fox has been a leader:

- in the digital TV build out;
- in the creation and distribution of high definition programming (including 100% of NFL, Major League Baseball, NASCAR, and scripted programming);
- and in the effort to educate consumers on how to prepare for the digital transition, with more than 38,000 public service announcements (PSAs) aired on Fox-owned stations.

I would like to focus on one issue that is vital to the long-term success of local broadcast television: the broadcast flag. The flag is a descriptor that broadcasters may embed in a television program that signals that the program is not to be indiscriminately redistributed. Currently, there is no requirement that any television product respond to the broadcast flag. Local broadcasters are required by law to provide their content "in the clear." This means that high value content like *The Super Bowl*, *The World Series*, *American Idol*, and *The Simpsons* is not technologically protected against indiscriminate redistribution. Other platforms, such as cable, satellite, telephone companies and Internet distributors of television programming, have already spent millions on the design, deployment and maintenance of increasingly sophisticated technology for content protection. By contrast, local broadcasters are unable to offer ANY protection.

This imbalance threatens the long-term viability of local broadcasting, which will lose high value content to platforms that offer technological protections. The broadcast flag is the best way to prevent this serious threat to the future of free TV and we therefore strongly urge Congress to pass legislation that would authorize the FCC to adopt the broadcast flag rule.

The past few decades have seen an explosion in consumers' options for enjoying audiovisual content. Where once people were limited to watching just three major broadcast television channels, we now have hundreds of channels being distributed on multichannel platforms. There has been a steady stream of new and innovative ways for

people to enjoy television programming, such as video-on-demand, video iPod, and video-over-mobile devices.

In fact, since your last hearing on the DTV transition in October 2007, we launched a venture with NBC Universal called Hulu, an online video service available in the U.S. that offers hit TV shows, movies and clips. This content is available on Hulu.com and on a variety of other Internet sites like MSN, MySpace, AOL, Comcast, and Yahoo! — all on an advertising-supported basis, without charge to consumers. Hulu also offers its users the ability to legally share full-length episodes or clips of television shows via e-mail or on other Web sites, blogs and social networking pages.

Unfortunately, this digital revolution has also created the opportunity for the theft of content on an unprecedented scale. The formerly burdensome and time-consuming process of uploading video content to the Internet is easy to accomplish today. Millions of users of "peer-to-peer" applications upload and download copies of broadcast television shows stripped of their commercials, thus putting local broadcast television at risk. Why? Because local broadcast TV cannot exist without advertising revenue, which is determined based on the size of the broadcast audience that is exposed to those advertisements. Fewer local broadcast viewers translate into less advertising revenue. If our revenues drop because of content theft, local broadcasters will no longer be able to compete with other distribution platforms for high value content. This, in turn, means that people will no longer be able to watch their favorite shows or national sporting

events from their local broadcasters for free. And without high value content, local broadcasting will struggle to survive.

The demise of local broadcast stations would be devastating for tens of millions of Americans for whom local broadcast stations are the sole source of news and entertainment. But even for people who have cable or satellite service, local broadcast stations are the only source of televised local news, local political races, local community affairs, local sports, local traffic, local weather reports, including *lifesaving* emergency weather updates. Local broadcast television, free to the public, is uniquely American.

The broadcast flag is the only solution to protect against the indiscriminate redistribution of local broadcast content while at the same time protecting the television viewing experience. With the broadcast flag, people will:

- Continue to enjoy the ability to make multiple copies of their favorite broadcast television shows;
- Continue to enjoy the flexibility of their home network;
- Continue to enjoy the features of every digital TV product that has been sold to date.

The FCC has already endorsed the broadcast flag, adopting a rule after taking into account the views of all interested parties. This rule was widely viewed as an acceptable compromise by virtually every stakeholder. The few that disagreed appealed to the courts, and in May of 2005, the U.S. Court of Appeals for the D.C. Circuit ruled that the

FCC lacked jurisdiction to enact the broadcast flag regulation, absent a specific grant of authority from Congress. The broadcast flag legislation that we support establishes the jurisdiction the court says was lacking and allows the FCC to reinstate the carefully crafted broadcast flag rule it previously adopted.

In conclusion, the broadcast flag will have no impact on the American public's legitimate enjoyment of broadcast television, while at the same time protecting the future of free LOCAL television.

Thank you once again for the opportunity to address this important matter. I would be pleased to answer any questions.

Ms. SOLIS. Thank you very much. Our next witness is Mr. Chris Murray. Chris Murray is Senior Counsel to the Consumers Union where he manages advocacy for Consumers Union on technology, communications, and media policy in the United States and internationally. You have 5 minutes, Mr. Murray.

STATEMENT OF CHRIS MURRAY, SENIOR COUNSEL, CONSUMERS UNION

Mr. MURRAY. Madam Chairman Solis, Representative Deal, Mr. Gonzalez. I would like to thank you for your extraordinary attention span today to sit through a long hearing. I would like to start with a story, a true story from a friend of mine, about John Smith, not his real name. He is a retired bus driver who lives in northeast Washington, D.C. He watches his favorite football team, the Washington Redskins, on an over-the-air television. That is the only kind of television he has in his home, so he is going to need a converter box. He doesn't have an Internet connection, so my friend helped him order coupons and find a retailer near him and the government's printed information directed him to a Radio Shack, which was within walking distance.

When he was there, he was surprised to hear the employee tell him that the only box they were carrying in the entire D.C. metro area was $60, not $40 as he had expected. He wasn't prepared to spend almost $50 for two converters plus tax so he went home. My friend and I tried to find another store in the D.C. area and came back empty-handed for a $40 box. His wife eventually went and bought the converters for more than $60 each and, sure, they got two converter boxes for $50 out of pocket, which is a lot better than the more than the $100 it would have been without the coupon program, but that is still $50 just for them to keep their TVs working as they always had been working. I will come back to Mr. Smith, but I would like to turn quickly to lessons learned from the DTV transition test in Wilmington.

And I would like to echo Chairman Martin's gratitude to Commissioner Copps for his excellent plan for a test market in Wilmington. I think it has yielded some valuable information. We learned in the Wilmington test that there are more Americans who rely on over-the-air than we had previously imagined. In Wilmington Nielsen had put the number at 13,500 over-the-air viewers, and what came back was that between 16,000 and 18,000 households said they rely on over-the-air and purchased a converter box. Now that means not only did every single last over-the-air viewer in that market get a converter box but another 20 to 35 percent also said they relied on over-the-air and got a converter box, so we should expect, I think, a big increase in demand. We should expect a spike as we near the end of the transition.

And, frankly, if the transition has an open moment, I think that is by definition a good thing. We really want people to be sensitized that this is happening. We want them to know that if they are an over-the-air family and they don't get a converter box their television is going to turn into a brick. My colleague, Dr. Book, has an excellent idea that we would like to second for a series of national blink-outs, basically taking 5 minutes out of popular programming to say here is where you can go for information about the transi-

tion if you need it. The problem that we were most interested in today was that the least expensive converter boxes aren't always making it to electronics retailer shelves as I noted with Mr. Smith. When our magazine Consumer Reports tested 24 DTV boxes, we found little variance in picture quality and features. In other words, we recommended that consumers buy the less expensive box but the problem is they are just not widely available.

We have one electronics retailer who—excuse me, manufacturer who has a $40 converter box and is selling that direct to consumers, but we are not seeing it in stores. In a country where 25 million of these boxes are likely to be purchased, why is it that we are not seeing the less expensive options? We hope that the Committee would use its bully pulpit and insure that consumers have these less expensive choices. We are also hearing complaints about cable providers taking channels out of basic tiers and moving them into the more expensive digital tier under the cover of the DTV transition, which forces consumers to buy a more expensive package to get identical service. When consumers paid for the same service at—excuse me, when consumers pay more for the same service, it is a rate hike, and at $10 per set per month, in some cases it is $5.00, $6.00 in other cases, this hike is not minor. And with the DTV transition already confusing consumers, we feel that the timing of the industry's rate hike is deceptive.

I am also concerned to hear Mr. Setos discuss the broadcast flag as a solution to the DTV transition. We heard Viacom in 2002 tell us that they wouldn't put HD programming over the air unless they got the broadcast flag. They didn't get it. That program eventually made it out there. I fear that this has long been a story of trying to restrict the innovative consumer electronics market place and we would vigorously oppose any such proposals. In conclusion, I will just say that on February 17 the U.S. is going to make the jump to digital. At that time either millions of Americans will have been educated about exactly what they need to do to minimize transition hiccups or millions of Americans will wake up to find that their TVs don't work anymore. I hope that we will void the latter scenario and I hope that we will apply some serious pressure to get that done. Thank you very much for the time today.

[The statement of Mr. Murray follows:]

Testimony of

Chris Murray
Senior Counsel
Consumers Union

Regarding

The Digital Television Transition

Before the

U.S. House of Representatives Subcommittee on Telecommunications and the Internet, Committee on Energy and Commerce

On

September 16, 2008

Chairman Markey, Ranking Member Stearns, Vice Chairman Doyle, and members of the Committee, I am grateful for the opportunity to testify before you representing Consumers Union (CU), the non-profit publisher of Consumer Reports magazine.[1] With over 8 million subscribers to our content in print and online, we are a consumer-supported, independent publisher that accepts no money from retailers or manufacturers.

In five months, due to a federal mandate, full power television stations will stop broadcasting in analog and begin broadcasting exclusively in digital (DTV transition). This matters a great deal to all consumers, but especially to those millions of "over the air only" households (at least 13.5 million according to a Consumer Electronics Association estimate), whose televisions won't receive a signal on the conversion date unless they take action.

As we near the transition date, it is important to highlight some significant lessons we have already learned about the transition, especially from the Federal Communications Commission's (FCC) recent DTV test in Wilmington, North Carolina. In particular, we are concerned about the government's coupon program designed to help pay for converter boxes needed to make "over the air" televisions work once the digital transition occurs.

The Wilmington test showed us that more Americans "rely on" over-the-air television than previously imagined. Nielsen data indicate only 13,500 Wilmington households are over-the-air only, yet according to the Commerce Department, more than 32,000 coupons were requested from households who said they rely on over the air and requested coupons—20% to 35% higher than Nielsen's number.[2]

Policymakers should be careful not to underestimate the number of citizens who rely on over-the-air television at the national level, as this could lead to inadequate funding of the program. Furthermore, at least as many cable and satellite households appear to be requesting coupons as over-the-air only, deepening the need for adequate funding.

We should anticipate a large spike in demand as we get closer to the transition date, and fund the program accordingly. As media impressions ramped up in the Wilmington market, there was a considerable increase in the demand for converter boxes, as well as for converter box coupons. In many cases, electronics retailers sold out of inventory and didn't have enough converter boxes to meet demand.

If there is a substantial nationwide spike in demand close to the transition date, we believe the program will quickly be overcommitted and have to turn away consumers who need a coupon. We are pleased to note that the DTV coupon program has mailed more than 25 million

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[1] Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the State of New York to provide consumers with information, education and counsel about goods, services, health, and personal finance. Consumers Union's income is solely derived from the sale of *Consumer Reports*, its other publications and from noncommercial contributions, grants and fees. In addition to reports on Consumers Union's own product testing, *Consumer Reports* regularly carries articles on health, product safety, marketplace economics and legislative, judicial and regulatory actions that affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

[2] If each household requested 2 coupons, then that would be 16,215 households relying on over the air; if each household requested 1.78 coupons (the apparent national average based on Commerce Department data), that is a total of 18,219 households, 135% of Nielsen's estimated 13,500.

converter box coupons (10 million redeemed). The high redemption rate of the coupon program is significant (Commerce Department statistics put this at 49%), but we are concerned that with the crescendo of advertising yet to reach its peak, the program will quickly find that more consumers want coupons than Commerce can *commit to* under the present budget. At some point before February, the coupon program will perhaps have to turn away (or delay sending coupons to) some number of citizens. We hope to be proved wrong, but believe policymakers should prepare for this contingency. Consumers were promised that the cost of the DTV transition wouldn't be on their dime. The federal government has an obligation to fulfill that promise.

We're also learning that **the least expensive converter boxes aren't always making it to electronics retailers' shelves.** When our magazine, *Consumer Reports*, tested 24 DTV converter boxes (available at www.consumerreports.org), we found little variance in picture quality and features. More importantly, we found that price is not necessarily an indication of quality or convenience, and advised consumers to buy the less expensive coverters. But retailers aren't always stocking those less expensive options.

For example, Echostar announced a $40 converter box and is selling that box direct to consumers on its Web site, but for some reason no electronics retailers are stocking it. In a country where more than 25 million or more homes are likely to buy converter boxes, why isn't the least expensive option widely available? We encourage the committee to investigate why consumers aren't finding these options and use its bully pulpit to ensure that consumers aren't falling prey to DTV profiteering.

We are also hearing complaints about cable providers taking channels out of basic tiers and moving them into the more expensive digital tier, under the cover of the DTV transition. This forces consumers to buy a more expensive package to get identical service—regardless of whether consumers have a digital or analog television in their home. Although the companies are positioning the changes as necessary to free up bandwidth, we believe that when consumers pay more for the same service, it's a rate hike. Households with multiple TVs must rent a digital cable box for every set. At up to $10 per box per month, the rate increase isn't a minor increase, especially in light of our present economic circumstances. With the DTV transition already confusing consumers, the timing of the industry's rate hike is deceptive.

Another lesson from Wilmington is that "awareness" is good and on the rise, but it's the details that matter—consumers need help troublshooting their new systems. When we last testified before this committee regarding the DTV transition, we noted our survey findings[3] that three of every four consumers (74%) have major misconceptions about the DTV transition. Awareness is definitely improving, but the Wilmington test demonstrated that the most difficult aspects of the transition are the nitty gritty details. Citizens need to know more than just that the DTV transition is happening, they need help installing their new converter boxes, they may need help determining whether they need a new antenna and then need help

[3] The Consumer Reports National Research Center conducted a telephone survey of a nationally representative probability sample of telephone households. 1,013 interviews were completed among adults aged 18+. Interviewing took place over Dec. 13-16, 2007.

installing it. While it's good that "awareness" is still improving, what matters most is on the ground help that people can use.

According to the Associated Press,[4] **problems with consumers' antennae were the top problem in the Wilmington test.** Consumers Union has been hearing complaints from consumers around the country (who are attempting to make the transition early) that they are not receiving all the television stations in digital that they were receiving in analog. While this could be a result of many factors—some stations are not yet broadcasting in full power digital, some broadcasters are reducing their broadcast territory, and some consumers may have inferior antennae—nevertheless this remains a problem for many consumers.

The FCC needs to develop a coherent message to help consumers sort through antenna confusion. The agency should identify gaps in digital signals across the country and help citizens to both identify those gaps and plan ways to fix the problem, such as buying a new antenna, or repairing/repositioning the one they already have.

We are concerned that the aggressive outreach program in Wilmington may not be replicable nationwide. It was laudable that the government was able to put major resources into bi-weekly calls with broadcasters, buying billboards, meetings with community groups and putting agency staff in the field, but is that scalable to every media market in the country? It is our hope that the agency is prepared to do this nationwide as is needed.

Finally, I'll note quickly one other item that could help consumers with their television experience—passing the legislation proposed by Representatives Eshoo and Pickering (HR 6209, the CALM act), which requires the FCC to examine whether broadcasters are increasing volume levels during commercials, and take action to mitigate this problem. We have all likely noticed recently that our televisions sometimes shout at us during advertisements—whether this is to try to get greater emotional impact with commercials or simply to make sure viewers hear the ad when they go to other rooms during breaks, it is a true consumer annoyance and we support Rep. Eshoo's approach to the problem.

On February 17, 2009, the U.S. is going to make the jump to digital. At that time, either millions of Americans will have been educated about exactly what they need to do to minimize transition hiccups, or millions of Americans will wake up that morning and find their TVs don't work anymore. If we're going to avoid the latter scenario, I humbly submit to the Committee that we're going to have to get our act together, and fast.

Thank you Mr. Chairman once again for the opportunity to appear before your Committee.

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[4] John Dunbar, *"Old Antennas Cause Complaints in Digital TV Test."* Associated Press (September 10, 2008)

Ms. SOLIS. Thank you very much. Our last witness is Dr. Connie L. Book. Dr. Book is the Associate Dean of the School of Communications at Elon University in North Carolina. She serves on the board of the North Carolina Agency for Public Telecommunications and has conducted a wide array of research on broadcast communications issues. Thank you and you have 5 minutes.

STATEMENT OF CONNIE LEDOUX BOOK, PH.D., ASSOCIATE DEAN, ASSOCIATE PROFESSOR, ELON UNIVERSITY

Ms. BOOK. Thank you, Madam Chairman and members of the subcommittee. We handled 172 calls that came into local television stations in the Time Warner Cable call center from noon to 10 p.m. on the day of the transition. I brought a handful of bright and energetic Elon University students with me and one of them is here today with me, Lauren Limerick, and she handled several calls gracefully and patiently that day, and so we are grateful for the opportunity to share some of what we have learned in that process. When I was in the 6th grade my sister, Yvette, who was the pretty one in our family, was a huge fan of Elton John. ABC, which aired on Channel 33 in Baton Rouge, Louisiana, was scheduled to have a live concert. Unfortunately, we only had a VHF TV station.

My dad, faced with five teenage girls, succumbed and on the day of the concert brought home a new color UHF TV set, raised the antenna, and, bam, we had Elton. I remember my dad fooling with the TV to get the best signal, the concert, the big sunglasses, and the white leather suit. I start there this morning because that is what we are asking Americans to do on February 17, 2009, not a hard task for my dad at the time because he had the means and the ability, but that is not the case for all Americans, and we don't want them to miss the concert. Today I would like to share just a few of the lessons that we learned as part of our efforts in Wilmington.

First, the information campaign in Wilmington was a hands down success. Virtually everyone that faced disrupted signals and called knew about the transition and had purchased a converter box. The means employed by the FCC, local government, broadcasters, and grassroot efforts worked. The rest of the country will need to follow suit, and we asked people where they had heard the news about digital television and most said I heard it on TV. And TV can be used more effectively to help Americans make the transition. Prior to the switch on Monday, Wilmington conducted what I call a series of blinking tests, soft tests, where they interrupt analog program with a slate that says if you are looking at this you are not ready. They were 30 seconds, a minute, and were at different times of day.

We would recommend that other markets in the U.S. start blinking that signal more frequently and during viewers' favorite programs. That may sound odd but the truth is a viewer can forgive you for missing 5 minutes of their favorite program but not the whole program. We learned that in Wilmington when phones heated up after Oprah Winfrey went on the air at 3:00 on Monday with the launch of her new fall season. Those viewers left with a slate telling them to call a 1-800 number or a county office weren't thinking too kindly of the digital TV mandate. Also, interrupting

viewers' favorite program will create a sense of urgency that they need to get ready. In Wilmington, most of the callers had ordered and redeemed coupons for their digital converter boxes. Elon students assessing the retail conditions found Wal-Mart to be the primary point of purchase.

When local residents went to Wal-Mart and got that box, they did so from a shelf with a small typed up on white paper note saying the switch was scheduled for September 8, nothing fancy, and on a shelf with lots of other products. More can be done at this point of sale. The primary issue with callers was not that the converter box wasn't working but the antenna wasn't picking up signals. In Wilmington analog signals sat on one tower and digital signals on another. People had to move their antennas to receive the new UHF signals. Working with key retailers like Wal-Mart, broadcasters should create documents that are visually heavy to walk through the local information needed to install the best antenna and to point it in the right direction.

To do this, the local TV engineering staff should be busy the next month testing signal strength at local points throughout their communities and creating one-page documents with neighborhood level data. For example, we got calls from different pockets of Wilmington, and residents would say nobody on my street can get that signal. This street level neighborhood data should be available at the point of purchase of DTV converter boxes. We recommend broadcasters get busy creating them.

Even with a slate telling them to call the FCC, 172 Wilmington residents decided to call their local TV stations, a telephone number they probably had to look up in the phone book. A majority of these callers were elderly residents, and frequently there was someone calling on their behalf. People have a relationship with their local broadcaster, especially the older, often home-bound. We would recommend rather than a slate that directed viewers to call a 1-800 number that stations use local talent to teach viewers experiencing problems what is necessary to acquire a signal. For example, Atlanta should have Monica Kauffman explain how to set up the converter box and antenna using a graphic. The Hispanic community should hear from local Spanish speaking broadcasters at Univision or another station teaching them how to get their signal.

These local segments could be aired on continuous loops in the marketplace and give people a chance to solve their own problem rather than calling a 1-800 number, and if they do call TV stations need to set up prototype viewing environments so that if callers work through issues with station volunteers or staff they can have a visual in front of them to look at what the caller is experiencing and more effectively walk through resolving the problems. You still will have hardship cases and in these we need to create an emergency converter box.

[The prepared statement of Ms. Book follows:]

SCHOOL OF
COMMUNICATIONS

Testimony of

Connie Ledoux Book, Ph.D.

Elon University

Before the

Subcommittee on Telecommunications and the Internet

Committee on Energy and Commerce

U.S. House of Representatives

Hearing on

"Status of the DTV Transition: 154 Days and Counting"

September 16, 2008

Key Points

Based on our work fielding phone calls to television stations on September 8, 2008 in Wilmington, North Carolina for the ten hours immediately following the market's switch from analog to digital television, we make the following recommendations:

- More field tests should be conducted. Broadcasters across the country should be blinking the analog signal more often and during viewers' favorite programs to create a sense of urgency that they need to prepare for the digital transition.

- More can be done at the point of sale of converter boxes (likely to be Walmart) to educate consumers about antenna frequency, height and direction. The local broadcast engineering staff should be busy over the next month testing signal strength at local points throughout their designated market areas, creating one page documents with neighborhood level data related to antenna positioning. Government communication need to be improved to address antenna information.

- Television is the primary way residents are learning about the digital transition. Analog television signals can be used more effectively during the transition by having local talent demonstrate how to connect converter boxes, antennas and correct set-up a new digital television receiver. This loop should play continuously during the actual transition and before during testing phases. The FCC's call center phone number and information about local centers established to assist can run as a crawl across the bottom of the screen.

- Television stations should establish models of signal reception environments so they can handle calls to the station effectively. More staff will be needed the day of the transition and for a few days immediately following to handle calls.

- Communities will have some hardship cases of residents unprepared. Broadcasters and retailers should be empowered with the ability to provide digital converter boxes to address these situations and be assured of compensation to follow.

- The weeks before the transition and especially on the holiday weekend of the digital transition, entice them to viewers to switch by offering exclusive programming on the digital channel.

- The most important lesson from Wilmington's test was that the vast majorities of citizens trusted the government's decision and were prepared.

Testimony

Good Morning Chairman Markey, Ranking Member Stearns and Members of the Subcommittee. My name is Connie Ledoux Book. I am the associate dean in the School of Communications at Elon University in North Carolina. I began working to understand the impact of the digital transition on consumers in 1997. I worked with Capitol Broadcasting in Raleigh, the nation's first commercial digital broadcaster, to study consumer reaction to high definition and to plan consumer awareness and education strategies related to the DTV transition. That work is detailed in a book I wrote on digital television and it is what brought me to Wilmington with a group of bright and enthusiastic Elon University students last week. We handled 172 calls that came into local television stations and the Time Warner Cable call center from noon to 10 p.m. on the day of the transition. One of those students, broadcast communication senior, Lauren Limerick, is here with me today. She gracefully and patiently took a number of calls last Monday.

We are grateful for the opportunity to share what we learned in that process.

The Wilmington early DTV transition demonstrated a best case scenario in the country and because it is a best case scenario offers significant lessons for stakeholders as we move forward with implementing the full digital transition next February. Today I'd like to share a few of those lessons and some things broadcasters and communities can accomplish as they prepare for the full transition next February.

Television is the primary source of information about the digital television transition.

The information campaign in Wilmington was a hands down success. Virtually everyone that faced disrupted signals and called knew about the transition. The majority had purchased a converter box or new digital television receiver to ensure they were ready. The means employed by the FCC, local government officials, local broadcasters and other grassroot efforts at schools, churches and senior centers around Wilmington--worked. The rest of the country will need to follow this example. We asked callers where they heard the news about the digital television transition and the overwhelming majority said they had heard about the transition on television. That lets us know broadcasters and cable companies need to continue using television to tell the

story of the digital transition. We have some suggestions on how they might use those television signals more effectively.

Blink the analog signal more often and during viewers' favorite programs.

Prior to the switch on Monday, Wilmington broadcasters conducted what I call a series of *blinking tests*—where they interrupted analog programming with a slate that said in a nutshell, "If you are looking at this, you aren't ready for the digital transition." Those blinks were conducted at noon and 7:30 p.m., 1:00 and 5:00 minutes respectively. A few calls and subsequent problems solved resulted from those interrupted analog signals. We recommend that other markets in the U.S. start blinking their analog signal more frequently and during the most popular television programs. That may sound odd, but the truth is a viewer can forgive you for missing 5:00 minutes of their favorite program, but not the whole hour. We learned that in Wilmington when phones heated up at WECT after Oprah Winfrey went on the air at 3:00 Monday afternoon with the launch of her new fall season. Those Wilmington viewers, left with a slate telling them to call a 1-800 number or a county office, weren't thinking kindly of the new digital TV mandate. By interrupting their favorite programs, viewers will have a sense of urgency that they need to get ready.

They are headed to Walmart to buy that converter box.

In Wilmington most of the callers had ordered and redeemed coupons for their digital converter boxes. Elon students assessing the retail conditions found Walmart to be the primary point of purchase. When local residents went to Walmart and purchased their boxes, they did so from a crowded shelf of products. At the top of the shelf was a small countdown clock and a note on white paper saying the switch was scheduled for September 8th. Unfortunately, just below that was a notice letting customers know that they were sold out of converter boxes. Store retail clerks estimate that they sold out of the converter boxes 72 hours before the transition was set to commence.

Figure 1
Walmart Store in Wilmington, Sold-out of DTV Converter Boxes

More can be done at the point of sale of the converter box. The primary issue with callers was not that the converter box wasn't working, but that the antenna wasn't picking up signals. In Wilmington, analog signals sat on one tower and digital signals another. All the digital signals were UHF. These issues would be the primary ones that caused disruption. Working with key retailers, like Walmart, broadcasters should create documents that use step-by-step visual instructions to walk through the local information needed to install the best antenna and to point it in the right direction. To accomplish this, *the local broadcast engineering staff should be busy over the next month testing signal strength at local points throughout their designated market areas, creating one page documents with neighborhood level data*. For example, we received calls from different pockets of Wilmington and residents would report, "Nobody on my street can get a signal." This street level, neighborhood level handout should be available at the point of converter box sale, as well as directly placed in residents' mailboxes. Neighborhood fire stations, grocery stores and libraries could also provide these valuable documents. All public buildings could have this information posted. We strongly recommend broadcasters get busy creating them. As a side note, some of the documents created by the government use pictures of rabbit ears as the right equipment needed to receive digital signals. This picture can be misleading to consumers. A significant likelihood exists that a viewer will need a fixed antenna mounted outdoors or placed in an attic to receive good digital signals. Additionally, government documents fall short of providing information about towers and UHF versus VHF signals. All of these pieces of the puzzle will be important to those residents that rely on over-the-air television signals.

Use television more effectively during the actual transition.

When the switch happened at noon, the analog signals carried a universal slate on all stations that told viewers to call the toll free number. The slate also included information about local offices, churches and community colleges where volunteers were working to resolve issues. Even with these directions, 172 Wilmington residents decided to call their local broadcasters, a telephone number they probably had to look up. A majority of these callers were elderly residents, the average age was 60 years old, and frequently there was someone calling on their behalf.

People have a relationship with their local broadcaster, especially the older, often homebound viewer. Research shows that local station personalities can provide a sense of security and safety to heavy television viewers. *Local station talent should be the key information providers about the digital transition and how to set up a digital converter box.*

While a slate on the analog channel was needed to inform viewers of the transition, we would recommend this information be placed in a crawl and that unique station programming using local talent that walked them through what was necessary to set-up and acquire a digital signal be played on the analog channel. For example, residents in Atlanta should have Monica Kauffman explain how to set up the converter box and antenna. Then a graphic should appear that shows where the tower broadcasting the digital signal is located to help with directing the antenna.

Hispanic viewers should hear from their favorite Univision or Telemundo talent, explaining in Spanish what they need to do to receive over-the air signals. These local broadcast messages, featuring local talent, could be played on a continuous loop on the analog signals. Local papers should also publish maps of the tower locations. These materials, available during blinking tests and on the day of the transition, will increase the comfort level of viewers and provide them the tools to solve their reception issues without having to make a call. And if all that doesn't work, they can call the 1-888 phone number, or as in Wilmington, the fire department who was set up on transition day to make a house call, fix the digital signal reception and check the smoke alarm batteries.

Models of signal reception environments at local stations.

If they do call and our data suggest some will, television stations need to set up prototype viewing environments so that as callers explain their reception issues to station employees, the employee can have a visual in front of them of what the caller is experiencing and more effectively walk them through resolving the problem.

You will have some hardship cases.

We interviewed a woman at Radio Shack the day before the switch, distressed because she had moved after ordering a converter box coupon for her old address. We also heard from a Walmart sales clerk that a few residents were in the day before the switch with expired coupons. In these situations, we need to create an emergency converter box distribution option. Broadcasters might be provided a set number of boxes to have on hand to resolve these issues. And truth be told, broadcasters could buy them—they are the ones that immediately benefit from making sure their signal arrives to the home. Retailers might also be empowered to accept a coupon when the situation merits it and know that they will be reimbursed by the NTIA program.

The weekend of the digital transition, entice them to switch with exclusive digital programming.
When the nation switches to digital in February, it will be the day after a long weekend, which includes Valentine's Day and President's Day. That long weekend could serve as important get ready days where broadcasters and civic stakeholders could show their community "some love" and make sure the digital signal is good to go. On President's Day, February 16th, the day before the switch, or even the weekend before the official switch, we strongly recommend that the digital signal carry enticing programming not available on the analog side. Programming that is universally appealing. Perhaps Oprah Winfrey would be willing to create a special program and show broadcasters a little love that day. Or perhaps a local high school basketball tournament, a talent show, a famous concert or movie, something to motivate folks to make the last minute switch.

The most important lesson from Wilmington's test, citizens trusted their government and got ready.
But perhaps the most important story from Wilmington is that the American people trusted their government and in good faith prepared for the mandated switch, trusting that the promise and the potential of the spectrum this makes available will be good for our Country. That's the real story from Wilmington. We watched it happen. I strongly encourage our elected and appointed government officials, as well as our nation's broadcasters, to act with expedited efficiency on the people's faith in our government's decision.

Respectfully submitted,
Connie Ledoux Book, Ph.D.
Elon University

Ms. SOLIS. Thank you very much. Before I turn to our members for questioning, I want to request unanimous consent for 3 items. One is a press release and fact sheet concerning consumer awareness of the transition by the Consumer Electronics Association, second, a letter from Commissioner Copps, the FCC to Chairman Martin concerning steps the FCC should take to prepare for the DTV transition, and then third a letter sent by Chairman Martin to the Consumer Electronics Retailers Coalition regarding the availability of low cost converter boxes. I request unanimous consent to submit these for the record.

[The information appears at the conclusion of the hearing.]

Ms. SOLIS. And I would recognize Congressman Gonzalez from Texas for a line of questioning. He has 5 minutes.

Mr. GONZALEZ. Thank you very much, Madam Chair. The question is going to be to Dr. Book because you had mentioned something about making available emergency converter box and then your time was up, and I am not going to let you get away with that. So what is an emergency converter box?

Ms. BOOK. Well, I was just trying to make the argument that there needs to be some system for hardship cases and that broadcasters should have either a supply of boxes on hand at the broadcast stations or retailers should be empowered to provide a box to a hardship case and know that they will be reimbursed for that so there needs to be some last resort so that people can solve people's problems.

Mr. GONZALEZ. Which I think is a good suggestion and we need to start thinking in those terms so the next question kind of goes to that. Mr. McLean, I am trying to figure out the relationship between the deadline and such. In your written testimony you point out an important fact and that is going to be applications for the coupons will be accepted up until what date?

Mr. MCLEAN. March 31 if there are sufficient resources to be able to fill coupon requests.

Mr. GONZALEZ. What was that date again?

Mr. MCLEAN. March 31.

Mr. GONZALEZ. All right. And then these coupons will have an expiration?

Mr. MCLEAN. Ninety days.

Mr. GONZALEZ. Ninety days, so that conceivably would still be going to the retailers to purchase these boxes all the way up until 90 days from whenever this coupon is issued, so that the supply has to be out there. I am not a business person. Obviously, I am in Congress and if I was a business person we would probably be running this show a little differently but inventory, are we going to have sufficient inventory because it seems to me that you are going to anticipate a surge of some sort and like most surges just regardless of their application the surge is temporary as well as the consequence of that surge so are you going to be—are these retailers going to be stocking tremendous numbers of converters figuring that after February 17 and so on that you are going to have a consistent high demand all the way 90 days after the March date?

Mr. MCLEAN. I can report that our members are working very, very hard to assure that our customers have product available when they want it, but you have identified I think precisely the

challenge here because we are—we have no playbook. We have no prior program to look at. We have one future program. This is a once in 100 years, once in a lifetime transition, one of unprecedented complication, and one that is done on a free market basis where we have competitors unable to coordinate with each other on price or availability and you have like in Star Trek where you have the multi-level chess game where you have competitors in the market place moving product and price and supply in response to what other competitors are doing.

We are analyzing the data from the coupon redemptions and fulfillments. We are looking at the data at the Wilmington experiment, and I know that they logistics and the buyers are studying that very hard to try to make the right decision. The big question is what happens when the coupon program ends. Do we have a product that suddenly is unpopular and we have shelves stocked with products that we cannot sell without a $40 coupon, so that is another piece of the puzzle that our buyers are trying to make independently of course of each other and to make sure the customers are happy, so we are working very hard to make sure that we don't have a problem but we are in uncharted territory in general and it is going to take, I think, a high degree of data communication which thankfully we have received from NTIA and the FCC and the broadcasters to make sure that we can make adjustments as we approach those two critical dates.

Mr. GONZALEZ. And my fear is that we don't have that coordination as we get closer to it, and all I can say is what I am saying in anticipation, we had nothing about reissuance and that is an issue that has been out there for some time, under utilization, the number of boxes not being available, none of that. I know there is a certain degree of success but I am saying I hope this is not true, but I think the real challenge still awaits us as we get closer to that date. So all I am saying is let us just work together, try to give you as much predictability as possible so you retailers will have those boxes.

Mr. Kittleman, I only have 4 seconds but I want to cover quickly, don't Spanish language TV stations have a totally different situation than your TV station, and that is they got competitors you don't have. Right over the border they are going to continue to broadcast in analog. Should that be a concern?

Mr. KITTLEMAN. You are correct. They do compete directly with Mexico channels. I would point out the largest station in Mexico, XERB, is already digital in our market.

Mr. GONZALEZ. And I am out of time. Thank you, Madam Chair.

Ms. SOLIS. Thank you. Mr. Deal from Georgia for 5 minutes.

Mr. DEAL. Thank you. I want to go to an issue that has already been alluded to and that is the fact that a number of retransmission consent agreements are going to expire around the end of the year, and some cable operators as we have heard Mr. McSlarrow enunciate are concerned that if the programming is simply pulled at the end of the year because of a failure to reach an agreement on retransmission that there probably will be a confusion as to whether or not that actually is attributable to the DTV transmission issue. I have a quote from NAB, and I am going to

ask Mr. Rehr and Mr. McSlarrow if they would respond to this after I give you the quote and then ask you a question.

And the quote is this: "Many major broadcast events will occur in early 2009, think National Football League playoffs and Super Bowl, and that a quiet period longer than 1 month would shift significant negotiating leverage away from broadcasters to the multichannel video providers and without a resulting benefit to the public that could justify such a government thumb on the scale." Now my question is, and this is attributable to NAB from a publication broadcast I cable, the question is this: what significant negotiating leverage is NAB referring to? Do you believe that the broadcasters on admission of having significant negotiating leverages due to government created rules whereby they have the leverage of must carry and the retransmission consent regulatory regime and the significant negotiating leverage created by cable operators not being allowed to shop the broadcast signals from neighboring DMAs or is it simply a natural result of the so-called free market system? Mr. Rehr, I will start with you and then I will go to Mr. McSlarrow.

Mr. REHR. Thank you, Mr. Deal, for that question. I would like to, and I brought with me and I would like to put into the record, an explanation of the retransmission consent process. This hearing is about the DTV transition. We can get into the quiet period relating to it, but I think it will answer a number of concerns. Let me make just a couple points. Number one, the retransmission consent law has been in effect since 1992. That means that there have been five cycles of tens of thousands of contracts, agreements, between cable and satellite operators and broadcasters. You can count the number of problems where there hasn't been some accommodation by all sides less than the number of fingers on my hand.

So if we are looking at is it going to be a big problem and we multiply five cycles, which is probably in the upwards of 30,000 to 40,000 contract less than 10 problems, that would give kind of the weight of significance to a potential problem. Number two, Congress wisely built in checks and balances since 1992. For example, the FCC does have a right if either party, not just broadcasters but cable operators as well are not operating in good faith. There has only been one occasion when FCC has said a party has not been negotiating in good faith and it wasn't a broadcaster. It was a satellite distributor.

The FCC has never found a broadcaster not operating in good faith. Point number three, local communities see the benefits of this local programming in this retransmission process and I have a great respect and a great admiration for my good friend, Kyle McSlarrow, but broadcasters, local broadcasters, have to choose for 3 years must carry or retransmission consent. Once you choose retransmission consent there are a number of variable on the table which are negotiation with cable operators including program insertion options, spot sales, fiber runs between transmitters and head ends, promotion spot guarantees, channel position, tier placement, et cetera, et cetera, et cetera. It is all outlined in this kind of what I refer to as the Candyland way to understand retransmission.

Mr. DEAL. I apologize for interrupting you, but I am down to less than a minute. Let me use that for Mr. McSlarrow to respond.

Mr. MCSLARROW. I don't think this is a matter of good faith. I think this is the structure of the system. People in good faith can reach a result that harms consumers, and it is different in 2008 and it is increasingly becoming different, I think, in the out years from the way it has been the last 15 years. The economics and the balance of leverage, if you will, was roughly equivalent for many years, and I think as David said in most cases people work it out in a way that serves consumers' interests, but you are now talking about public statements from what used to be—and remember every broadcaster has said it today, free over-the-air. You are not talking about exorbitant cash demands. They are going to change the balance and put operators who stand in the shoes of their consumers in a position of having to either pass that cost on or to insist that it be something lower which is what raises the threat of pulling the signal.

The quote that you just read, assuming that it is an accurate quote, I think, tells the story. The point is if you are saying we have a retransmission agreement that expires December 31, what would get us through the digital transmission——

Ms. SOLIS. Can you sum up real quick?

Mr. MCSLARROW. Yes. You would naturally just say take it from that point through the transition. The fact that they have chosen January as a carve out is precisely because some stations, some broadcasters would like to threaten the loss of signals. That is the risk of confusion.

Ms. SOLIS. OK. Thank you. Our time is almost up but I still have 5 minutes so I want to go through my questions. But I want to just make a comment to Mr. Rehr, Mr. McSlarrow and others who have really worked with the Congress and the different entities in helping to bring about more awareness for the transition, particularly in the Spanish language media and the senior citizen and those different segments of our population. I really think that is great, but one of my questions still remains, how we do get the retailers to provide sufficient boxes there that are needed that are at a low cost preferably for many folks that can't afford them, and what is it going to take to make that happen. That is a question I have generally for Mr. Romeo.

But I want to hold off for a minute because I want to go to Mr. Candelaria. You come from Texas, the area that may be affected more heavily in a different way regarding the transition here. And I wanted to ask you what has been your feeling or what are you picking up out there in terms of the information that is getting out to the Hispanic community about the transition?

Mr. CANDELARIA. Well, the information is getting out there but not to the rate that we would like for it to get out there. And the simple barrier here is the Spanish language. We have over 310,000 people just in El Paso alone that are Spanish language dominant. They are not getting the information that they need on a regular basis. I mean they are watching our station but that is the difference between us and the English language stations. If their language was Spanish or at least bilingual then this wouldn't be an

issue. This wouldn't even be a question anymore and it wouldn't be a fight.

Ms. SOLIS. What about the issue regarding your opponents that say 4 years is too long and is actually going to be a cost that will be a burden on many that will be affected by this?

Mr. CANDELARIA. Well, it is only a burden if they choose to continue analog but it is only optional. We have the same expense they do. We have converted, and our expenses are that much or more than any of the broadcast stations simply because of what we have, but the transition is we are asking for 4 years just to appease certain people, and I think that that will give us enough time at least to get the majority of the Hispanic population in compliance.

Ms. SOLIS. Could you touch on the public safety aspect issue?

Mr. CANDELARIA. Well, yes. In El Paso alone we had the 100-year flood a couple years ago and there were literally houses under water in El Paso. Imagine. And without our broadcasting signal and strength there were a lot of people that could have perished, and just the simple fact that, you know, natural disaster, you have the border war over there in Juarez where it is starting to spill over into El Paso where there is way over 1,000 people have been killed in Mexico alone, and it is a disaster that is just waiting to spill over to the U.S. side of the border, and that is the concern just to mention a few things that we are greatly concerned about as far as our public safety.

Ms. SOLIS. I wanted to ask you about advertising revenues for local affiliates. That is an important part of this debate. If tens of thousands of Spanish dominant households opt to watch Mexican analog TV instead of purchasing a converter box to transition to U.S.-based digital television advertising revenue for both English language and Spanish language border stations based in the U.S. would undoubtedly be impacted. Specifically how would a large drop off of Spanish dominant viewers in the border region affect revenue for both English and Spanish language affiliates?

Mr. CANDELARIA. Well, the shift, right now our station is the leading station in the market both in revenue and in ratings, and a lot of the over-the-air signals that are predominantly Spanish dominant households receive that jut through the over-the-air waves, and the problem here is that there would be a shift because it is a dire rated market, and that shift would go away to the Spanish language Mexican stations simply because they are broadcasting in analog when everybody else is broadcasting——

Ms. SOLIS. Is it disadvantaging some of our folks——

Mr. CANDELARIA. It is a total disadvantage and the shift would go to the English station rating.

Ms. SOLIS. Just one last question. We talked about the expiration of the coupons and if this program, if this bill were to be signed obviously there would have to be a whole new mechanism set up for something like that. How would you see something like that working?

Mr. CANDELARIA. Well, it has got to be promoted well, and there has got to be an extension on the couponing, and we are over delivering our redemption rate in El Paso to the tune of about 240 percent, so I think with a little bit more time that is all we are asking

is just a little more time to consistently promote, then we can foreseeably get the majority of the Hispanic population on board.

Ms. SOLIS. And you are saying opting in is kind of a key word here that people need to know about. OK. We will recess momentarily for the chairman to come back. He is on his way back here to the committee and I have to go vote, so we will recess momentarily. Thank you to all the witnesses, by the way.

[Recess.]

Mr. MARKEY. The hearing is reconvened with apologies to our panel. Just for the purposes of understanding what is going on, we do not have a filibuster rule in the House of Representatives so you cannot filibuster. However, you can call any number of irrelevant roll calls to adjourn and do many things which is a substitute for what actually makes filibustering look rational. So that is what we are now engaged in out on the House floor and why the members have been running in and out like it is the 400 meter relay in the Olympics, and we just hope no one drops the gavel here on the Democratic side so that we are not disqualified. And we are trying our best here to be respectful of the panel, and we appreciate all the effort that you have made to be here and to present your testimony.

So, Mr. McLean, how can we get retailers to stock more of the $40 analog pass-through devices so that consumers can watch this brand new technology?

Mr. MCLEAN. Well, our members have worked extraordinarily hard to get products onto the shelves. When they go to market individually and independently to purchase products, they have to be able to buy it at a scale that could fill hundreds of stores. And it is a complex matrix of features and price points and quality and returns that the retailers have to make. Our counsel has done a survey of online suppliers and has identified the $40 box available, but we have found that the supply chain issues that we faced at our last hearing were very severe and it required rapid action and in some cases extraordinary absorption of costs in order to be able to get pass-through boxes onto shelves.

Among the members they have had to incur costs for air freighting the pass-through products. There has been a tremendous amount of training and point of sale requirements and complying with the program. As a coalition of competitors, we cannot do any kind of coordination on price or product so each one of our members are making individual decisions. I will let the chairman know, however, with Chairman Martin's letter introduced into the record today and published on the web last night everyone of our members is aware of Chairman Martin's request about the $40 box.

Mr. MARKEY. We are going to have a really, really difficult situation along the border. And what do you need in order to insure that all the companies are cooperating at the point at which that becomes a much more urgent matter? What do you need from us? Do you need an anti-trust exemption for that purpose? Do you need something that we can make legal for a temporary period of time in order to deal with the specific situation because I would like to be able to find a way in which we can authorize all of you to go into one room and then all of you are responsible for putting together a plan and then we can hold you all accountable if some-

thing goes wrong rather than saying, well, we didn't have stores here, there or the other place. So do you need an antitrust exemption?

Mr. MCLEAN. Well, our members have of course accepted the premise of the program itself which did not——

Mr. MARKEY. No, that is great, that is great. I just don't like the fact that you are not able to talk to each other comfortably if that is what I am picking up from your testimony.

Mr. MCLEAN. Well, we certainly under the current law cannot coordinate price, product selection, terms of sale. That is absolutely prohibited as a coordinated basis. In terms of the border, I can tell you that each one of our members has gone to extraordinary lengths to be able to have Spanish language and English language availability of information. There are installation videos available in Spanish. There is tremendous outreach through the DTV coalition into Hispanic community in order to be able to put forward the urgency of conversion, and in the fact the polling validates that among the highest level of awareness is in the Hispanic community.

Mr. MARKEY. So they can't talk to each other though. Can they talk to you? Can each company talk to you? Does each company talk to you?

Mr. MCLEAN. Companies do talk and there are things they cannot tell other companies.

Mr. MARKEY. You can know everything though, is that right? That is the point I am trying to reach. You can know everything even if you can't share it with the other companies?

Mr. MCLEAN. Counsel advises me that I may not be able to know everything. I certainly would not pretend to know everything.

Mr. MARKEY. How about this, if we asked you the questions that we want to have answered, could you ask each one of the companies to tell you what the answers to those questions are and then you tell us, would that violate any law?

Mr. MCLEAN. It depends. Again, counsel advised me it depends on the subject matter. However, that is precisely how we prepared our testimony today is——

Mr. MARKEY. I want you to share the specifics with us and then we will know who to really cut down hard on. So does that violate anything that you can then tell us and then we will know who you think isn't doing the job, and if you tell us everyone is doing the job then we can rely upon you to be the person who is determined that they are all doing the job. Can we construct something like that?

Mr. MCLEAN. I can certainly report to you that each one of our members is working very hard——

Mr. MARKEY. I know that. What I would like to do here is make sure that it is coordinated to the maximum extent possible so that there are companies getting an A in your opinion, a B, not generally. Generally, the class is doing very well. But there is a first row and a last row and then it averages out to a grade in the middle. I just want to know who is getting the A's if you can kind of tell us, and who is in the last row and then we can coordinate to get Mr. Candelaria down here a little bit more comfort that the stores are going to have—we got to know who is not doing the job.

Mr. MCLEAN. And, Mr. Chairman, your analogy of the classroom is exactly perfect because some of my class members excel in certain areas and others excel in others, and yet they are not coordinated in any way. We have some members that are online retailers, some members that have telephone services, some members that are exclusively consumer electronics and some members that are general retailers.

Mr. MARKEY. I appreciate that. You know, the nuns at the Immaculate Conception grammar school, we had 60 boys in the room and there were six rows of 10 a piece. There was a first row and a last row, if you know what I mean. In the last row the sister would always let them know what they needed to do to get out of the last row, but you needed first to know who was in the last row. She had high expectations for them because she really wanted them to maximize all their God-given abilities but it wasn't as though there was some charitable attitude that there was an average here in the middle that they could benefit from. OK. So all I am saying to you is, and we are going to press you on this and then hold you accountable that we are going to use you as an intermediary to insure that there is accountability so that if during that period of time which has more urgency something has gone wrong, OK, that you will have had the ability to know.

Mr. MCLEAN. And our ability to inquire on price and product plans is limited. I do not want to be sent to Mother Superior's office as a result of those inquiries.

Mr. MARKEY. Mr. Setos, your testimony paints the broadcast flag as pro-consumer and you are sitting next to Mr. Murray who differs as a consumer advocate. Could you tell me succinctly why you think he is mistaken and then, Mr. Murray, if you could respond. Mr. Setos.

Mr. SETOS. Thank you, Chairman. The challenge we face, and I sit here not as a producer of a movie studio, not as a broadcast network, but as the operator of 27 full power local broadcast stations, and many corporations are operated like this. The local broadcast stations are very concerned. The ones that we own and operate, they will not be able to compete for high quality, high value content in the coming years because their content can now be absconded with and transmitted all over the world in digital pure high definition form with impunity, and other platforms such as pay television operators, cable satellite, even on the Internet like iTunes insure that the content is only used as the official bargain to the consumer so states.

And so those local broadcasters are saying to their own company we are very exposed, we are very concerned, and so the benefit that it brings is as I said in my testimony it continues the promise of free local television in the market. On the other side of the equation is what harm might this cause, and as I have mentioned in this testimony and previous testimonies the flag doesn't add any cost to the product nor any limitations to the product nor does it obsolete any product that was ever sold to a consumer or probably is going to be sold to a consumer so we see no down side except what the rule that the Commission did pass in fact insures that products that see the flag in a broadcast won't allow that content to be indiscriminately redistributed. Thank you, Mr. Chairman.

Mr. MARKEY. Mr. Murray.

Mr. MURRAY. I come at this as a big believer in innovation and competition. I think that we are better suited by if we turn the Federal Communications Commission into the Federal Computer Commission and have them have purview over a series of consumer electronics products and have to have companies vet business plans through the agency, I think that is ill suited to innovation and ill suited to strong competition. I don't see revenues eroding rapidly. In fact, some have made the case that market share is growing because of additional content distribution.

We are not saying people shouldn't be able to protect their products. We just don't think that they should be able to fob off a mandate onto the whole of the consumer electronics industry to get that done. We have been through this throughout the broadcast flag. We thought it was anti-consumer then. We think it is anti-consumer now.

Mr. MARKEY. Back to you, Mr. Setos, 30 seconds.

Mr. SETOS. Well, the court threw it out because the judicial branch pointed out that the FCC didn't have the jurisdiction, not on the merits, not on the substance.

Mr. MARKEY. Back to you, Mr. Murray.

Mr. MURRAY. Right. The FCC doesn't have jurisdiction, I think, to be regulating consumer electronics products given a mandate to manufacturers. The story of the motion picture industry has been a struggle to lock down technology since the 1980s. We have heard from them then that the VCR was to—the motion picture industry is the Boston Strangler as to the woman alone and of course the end of that story was that it became the most lucrative slice of their copyright pie. But how do we lock that technology down? Then I don't think we would have seen all of the benefits of innovation that we have seen over the last 20 years.

Mr. MARKEY. Well, thank you. We thank each of you. The roll call did go off one more time, and there is 5 minutes left to go on the House floor on that roll call, so I think I can report to you that a sense of relief can set in down at the witness table that no members of Congress will return here to ask you any more questions. So it is with the thanks of the committee, and we know that everyone here is interested in the solution. We just have to make sure that everyone else that is related to each one of the entities that is represented down here has the same sense of commitment and that is really our highest goal.

We think we can do this but we absolutely have to have a plan because the consequences can be catastrophic. Thank you so much. The hearing is adjourned.

[Whereupon, at 1:25 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

STATEMENT OF HON. EDOLPHUS TOWNS

Thank you Chairman Markey and Ranking Member Stearns for holding this hearing. Our continued and vigorous oversight of all issues surrounding the DTV transition serves a crucial role in making sure that our constituents can enjoy the enhanced consumer and public safety benefits that this transition will provide. It is important to make sure that the transition date does not slip. I commend my colleagues on this subcommittee for their attention to this issue.

I would like to welcome the witnesses and thank them for their work. I am particularly interested to hear of the results of the test run in North Carolina. I understand that the public awareness of the switch was high but that in executing the switch and hooking up the equipment there were major problems. I believe this shows that the FCC and the stakeholders still have a considerable amount of work to do and urge them to concentrate almost exclusively on these issues as we go forward to February 17, 2009. I remain concerned that seniors, non-English speaking, and lower income Americans are in danger of being left behind.

I look forward to all the witness's suggestions about what if anything Congress can do to make sure this transition is as smooth as possible.

Thank you and I yield back the balance of my time.

Consumer Electronics Retailers Coalition

WHAT CONSUMERS NEED TO KNOW ABOUT THE "DTV TRANSITION" AND THE NTIA "TV CONVERTER BOX COUPON PROGRAM"

(1) WHEN WILL THE TRANSITION FROM ANALOG TO DTV BROADCASTING OCCUR?

The transition to digital television is ongoing; it is occurring NOW. The last day that major full power local broadcasters can send out conventional "analog" television signals will be *February 17, 2009*. After that date, your major local television broadcasters will broadcast exclusively digital television ("DTV") signals that can be received only by digital TVs or converters. ***If you use a TV antenna*** with one or more TVs, ***you may need to get an NTIA Converter Box Coupon***.

(2) I NOW RELY ON AN ANTENNA FOR AT LEAST ONE TV THAT DOES NOT HAVE A DTV TUNER. WHAT ARE MY OPTIONS?

NTIA Coupons (see below) come with a card listing three options. ***CERC suggests that you take this card with you*** when you go shopping with DTV in mind.

- To continue to rely on an ***antenna***, you will need a DTV broadcast converter product such as the ***Coupon-Eligible TV Converter Box***, which you can buy with aid of an NTIA Coupon.
- You could, instead, ***subscribe to a cable, satellite***, or other program delivery service that carries the broadcast programming in which you are interested.
- You could purchase a ***new digital television***.

➢ If your set is a regular analog television, you may want to obtain a TV Converter. You can apply for NTIA $40 coupons on-line at www.dtv2009.gov/ or by calling **1-888-DTV2009 (1-888-388-2009)**.

➢ If your set is an ***HD Monitor*** (sometimes called "***HD-ready***") you are likely to want a tuner that can receive HDTV broadcasts in full HDTV resolution (rather than "*downconverting*" them to a lesser format). TV converter boxes that are coupon-eligible do not have HDTV outputs, so you may want a product that is not eligible for the coupon program.

(3) WHAT IS THE NTIA "TV CONVERTER BOX COUPON PROGRAM"?

Each consumer household can apply for up to two $40 electronic coupons that can be used at participating retailers toward the purchase of coupon-eligible converter boxes that convert digital TV broadcasts to analog signals that can be received by the older TVs.

- You can apply for these coupons now on-line at www.dtv2009.gov or by calling toll-free **1-888-DTV2009 (1-888-388-2009)**. The web site and the coupon packaging will also have information about the models of certified converters and the local and on-line or telephone service retailers who will accept the government-issued coupons. The coupons cannot be combined to buy a single product, or to pay for shipping or to pay for sales tax. **Each coupon will expire 90 days from the date of issuance.** The deadline to apply for coupons is March 31, 2009, or while supplies last.

(4) I NOW SUBSCRIBE TO CABLE OR SATELLITE – DO I NEED CONVERTERS FOR MY TVS THAT ARE HOOKED UP TO THESE SERVICES?

No. Cable operators pick up most local broadcasts at a central location and send them to homes over cable; satellite services increasingly are able to do this as well. Through at least 2012 they will be required to provide the sort of free local broadcast programming they currently offer. However –

- If some of your TVs are ***not*** hooked up to the subscription service, and ***do*** rely on an ***antenna***, you ***will*** need to hook them up or get a converter box if they are not DTV sets.

- (If the TV is not currently hooked up to an antenna – is being used only for video games, DVDs, camcorder movies, *etc.* – nothing will change, because only *free over the air broadcasts* will be affected by this DTV broadcast transition.)

- Local major broadcasters are offering additional digital channels, some or all of which might not be carried, or carried in HDTV, by your service. If you want to see such *additional* channels, you need an antenna, and your set needs an HDTV or DTV tuner built-in or added on via a converter. For local information, see www.antennaweb.org.

- In the future, cable operators might *also* move to "all digital" means of delivery, which *could mean that even for your TVs that are hooked up to cable, you would need to procure a "set top box"* from your cable company or have a TV with a digital cable tuner (such as one with a "CableCARD" slot) – but for most cable systems this is likely a future consideration.

(5) MY NTIA CONVERTER COUPON IS EXPIRING, OR I CAN'T GET OUT TO STORES, AND I'M HAVING TROUBLE FINDING A CONVERTER – WHAT ARE MY OPTIONS?

- The NTIA's Coupon Program web site, at https://www.DTV2009.gov/VendorSearch.aspx, lists major national retailers that accept Coupons – Best Buy, Circuit City, K-Mart, RadioShack, Sears, Target, and Wal-Mart (all CERC members).

- The same web page also lists retailers (including Best Buy and RadioShack) that accept purchases with Converter Coupons by phone, and the toll-free numbers for each, and has links to retailers that accept Coupons on-line.

- Under program rules it is permissible to use a Coupon ordered by a friend (or a relative or a neighbor) or even to ask your friend to order a Coupon for your own use, provided that your friend's household is still entitled to receive Coupons. The program does not require that you be the one who ordered the Coupon that you use, so long as it is valid and unexpired, so, in a store or on-line, YOU can use a Coupon ordered by a friend. (Retailers do NOT check IDs based on your use of a Coupon, though they might of course if you are paying for the balance of the Converter price by credit card.) It is illegal, however, to sell coupons or to exchange coupons for something of value other than a converter box.

(6) WHAT IF I'M HAVING PROBLEMS WITH A RETAILER OR IN GETTING MY CONVERTER TO WORK?

Public and private resources are available to consumers who experience difficulties:

- If you believe a retailer has acted improperly or unethically, CERC advises that you call the NTIA at 1-800-DTV2009 or email via this link: https://www.dtv2009.gov/ContactUs.aspx. Retailers are subject to expulsion from the Converter Program if the NTIA finds they are consistently or purposely failing to follow its rules and requirements. Tell NTIA the specific store and location (or on-line or telephone name), date & time, and names or jobs of any sales associates or personnel in question. Of course, you should always try to resolve your difficulties directly with that retailer first.

- If you have problems operating a particular Converter, contact the manufacturer. You might also check whether the retailer from which you obtained it has a toll-free DTV "help" line.

- If you have unexpected reception problems on some stations, you may wish to check with those local broadcasters or with a local retailer. They may have some tips on improving your reception.

(7) DO I NEED A NEW ANTENNA?

In many or most instances, your existing antenna should work fine, but there may be exceptions to this because the local area effective reception patterns for digital broadcasts might be somewhat different than for the same station's analog signals.

- If you use an indoor antenna, in many cases the key part now will be the round or square element, not the "rabbit ears" part. You may need to experiment with both parts of the antenna to receive all of your channels. With an indoor or rotating outdoor antenna it might take more trial and error to "find" a digital signal, as you will not see a "too weak" signal at all.

- If you use a rooftop antenna and are at the edges of a coverage area, you might need some adjustment or amplification to pull in all the signals that you want.

- While a Converter that offers "analog pass-through" has the advantages discussed in Question 11, below, such a Converter, or an external "splitter" or "A/B" switch, splits the signal path so may require some antenna adjustment to make up for a slight loss in signal strength. This could be reflected in your antenna needs.

- You can obtain an initial indication of your situation at www.antennaweb.org. Some retailers and antenna installers will be able to test for signal strength at your home to help assure that you pull in the stations that you want.

(8) WHAT IS "DTV," ANYWAY?

While many signals are already sent and displayed digitally, the "transition" refers to the change in the broadcasting of local "over the air" TV (not cable or satellite), ***as you receive it using a "rabbit ears" or roof-top antenna***. A tuner for a digital broadcast signal may be called a "DTV" tuner.

(9) WHAT IS "HDTV?"

HDTV ("High Definition Television") is the highest quality version of digital television. Not all digital broadcast, cable, or satellite signals are in HDTV and not all "DTV" receivers can display HDTV. ***Analog HDTV broadcasts in the U.S. are not possible; all High Definition transmissions require digital HDTV tuners.***

(10) DOES MY PRESENT TV HAVE A DTV TUNER? WHAT ABOUT MY VCR, DVD RECORDER, PVR, DVR, ETC.?

The only televisions that have DTV tuners are those that have been sold – since about 1998 – as having an ***"integrated"*** or ***"built-in"*** DTV or HDTV broadcast tuner. (An HD set sold as a "monitor" or "HD-ready" is capable of *displaying* HDTV but does *not* have a built-in HDTV tuner.)

- Newer TVs still have "analog" tuners (useful in receiving signals from cable and satellite boxes, game players, and low power TV stations), but they also have built-in DTV or HDTV tuners as well.

- If you can get digital TV channels (*e.g.*, channel 4.1, 4.2, 4.3 ...) using an antenna now, then your set is a digital TV (or an HDTV) and it will not need any Converter.

(11) WHAT ABOUT "LOW POWER" OR "COMMUNITY" BROADCASTERS? I WATCH A LOW POWER "COMMUNITY" BROADCASTER THAT IS NOT REQUIRED TO CONVERT TO DIGITAL ON FEBRUARY 17, 2009, BUT I ALSO WATCH THE MAJOR STATIONS THAT WILL BE ALL-DIGITAL. HOW CAN I KEEP WATCHING BOTH ON MY "ANALOG" TV?

While the major commercial and public broadcasters are going all-digital by February 17, 2009, there are some specialized low power or "community" broadcasters that are not required to convert to digital in 2009. If you are accustomed to watching one of these stations, you will likely hear from *them* about how to maintain your viewing. Some of the Converters listed with an * in NTIA information have an "analog pass-through" feature that facilitates switching of the antenna between your analog TV tuner and your coupon-eligible converter box.

- This "pass-through" feature is not mandatory in TV Converters because there is a tradeoff in slightly reduced signal strength due to the switching circuitry. This might or might not be a factor in your viewing location.

- Initially, only a few of the NTIA-certified Converters had this "pass-through" option but many additional Converter manufacturers and retailers are adding this feature at the request of low power stations. If you are alerted that a station you watch is "low power" you may wish to check on the local or on-line availability of a "pass-through" Converter before applying for your coupon(s) from the NTIA.

- Alternatively, you could use a non-pass-through Converter and buy an accessory kit to do the switching between it and your analog TV.

(12) IF I AM SHOPPING FOR A NEW TV, WHAT DOES THE SHUTOFF OF THE ANALOG CHANNELS MEAN TO ME?

Almost all TVs available in stores today have built-in digital and analog TV tuners, and the few that do not should be accompanied by "consumer alert" labels. However, stores also sell display products that are "monitors" that do not have *any* tuner at all. Monitors can only be used with converter boxes for broadcast, cable, satellite, and competing services; or with DVD players, game players, computers, *etc.*

(13) WHAT ELSE DO I NEED TO KNOW ABOUT HDTV?

High Definition Television, or "HDTV," is the more general name for showing video in a newer and better format – ***a wider screen with about 5 times the picture information***. All types of video displays – conventional picture tubes, projection TVs, and Plasma or LCD "flat panels" – can show HDTV *if* they are designed to display this video information in this format. ***You can expect a product to tune and display HDTV only if it was sold or advertised as such.*** For more information go to www.DTV.gov.

- If your existing set is *not* HD-capable *(an "HDTV Monitor" or "HDTV" television)* it will not display an HDTV signal in full quality, even if it receives an HDTV signal from some other source.
- If your existing set *is HD-capable* it should display an HDTV quality picture from its own tuner or and external HDTV tuner (cable, satellite, broadcast, *etc.*) or disc or game player, but will display only a standard quality picture from a coupon-eligible converter box or other non-HD source.
- For an existing TV that cannot display an HDTV picture, your coupon-eligible converter box will *tune* the HDTV broadcast channels, but provide them to your set ***in a standard quality format that your set can display***.
- For further information on display formats, see the Consumer Electronics Association's HDTV Consumer Guide at http://www.myceknowhow.com/digitalTelevision.cfm.

(14) WHY WILL OVER-THE-AIR TV STATIONS STOP BROADCASTING ON THE "ANALOG" CHANNELS, ANYWAY?

After decades of study, Congress passed a law in late 2005 requiring this change. For more than half a century, TV broadcasts have used and improved on basic analog technology that was invented in the 1920s and 1930s. These signals take up a lot of radio "spectrum" that is now urgently needed for emergency communications and new **broadband** services. (Finding new frequencies for emergency communications became a high priority after September 11, 2001.)

- Congress found that we can support these essential communications, and new digital services, by moving TV to much more efficient digital transmission, while offering ***more*** locally broadcast channels, plus HDTV programming, in less overall spectrum space.
- Because many U.S. households still rely on antennas (indoor or outdoor) for all or some of their TV viewing, the Congress, when it enacted the DTV Transition law, set aside up to $1.5 billion dollars to fund the "TV Converter Box Coupon Program."

You can find out even more information on the DTV Transition by going to: www.DTVTransition.org.

For more information contact:

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

September 15, 2008

Christopher A. McLean
Executive Director
Consumer Electronics Retailers Coalition
317 Massachusetts Avenue, NE – Suite 200
Washington, DC 20002

Dear Mr. McLean:

As you know, the deadline for the digital television transition is five months away. Many of your members are playing a crucial role in the transition by participating in the government's coupon program to subsidize the cost of digital-to-analog converter boxes. We appreciate your participation in this program, which is administered by the National Telecommunications and Information Administration (NTIA). From the inception of the program, we have all hoped that a manufacturer would produce a converter box that would be available for $40, thus enabling television viewers to purchase a box for no cost other than local sales tax.

Recently EchoStar introduced a digital-to-analog converter box that is eligible for the NTIA coupon, that has the important analog pass-through feature, and that has a manufacturer's suggested price of $40. EchoStar first announced plans to offer a $40 box at the Consumer Electronics Show last January, and the arrival of this box has long been anticipated. Unfortunately, now the box is available, but we find that, thus far, none of the mass retailers is carrying the box and they do not plan to carry it. The EchoStar TR40 converter box is currently only available on several websites and by telephone, with an additional shipping charge of nine to twelve dollars. We understand from EchoStar that the box is available from a few very small retail outlets but is not offered for sale by any major retailer. As a consequence, this box, which was anticipated to be essentially free with the coupon, costs consumers more than ten dollars. Just as important, the limited availability makes it difficult for consumers to find and obtain the box.

I am writing this letter to ask CERC, a longtime supporter of the DTV transition, to help address this problem by asking its member retailers, particularly the major retailers, to agree to carry at least one box with the analog pass-through capability that is priced at $40. This may be the EchoStar box, or any other box that is introduced at the $40 level. Availability in retailers such as Best Buy, Circuit City, Sears, Wal-Mart and Radio Shack will be helpful for consumers trying to ensure that they don't lose television

service next February. These stores serve their communities in many ways, and this is an important way for CERC and its members to further assist the monumental task of completing the digital transition. Thank you for all of your efforts in facilitating a smooth transition.

Sincerely,

Kevin J. Martin

September 12, 2008

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

Dear Mr. Chairman:

As we distill the results of the Wilmington test, one lesson is already becoming clear: for consumers, this is not a national transition to digital television; it is millions of individual transitions in millions of American homes. Each consumer making the transition faces a unique set of issues and a unique set of challenges. Unless we sharpen our approach to reflect that reality, we face the possibility of enormous consumer disruption on February 17, 2009—now less than 160 days away.

Most of the outreach efforts thus far—ours and the private sector's—have been aimed at increasing consumer awareness that the transition is coming and giving general advice about how to prepare. These efforts are important and must continue.[1] But it is time now to help consumers better understand the specific problems they may encounter before the February deadline. In Wilmington, for instance, early analysis indicates that the great majority of residents who sought help in the wake of the switch-over had specific technical problems—*e.g.*, converter box installation issues, antenna or other reception problems—and sought individualized assistance from the FCC and others. Watching additional generalized PSAs would have done them no good; they needed specific help for their specific problems.

As you know, I have long been concerned about the pace of preparation for the transition. Those concerns persist. The purpose of this letter, however, is not to look back at what might have been done differently, but to share with you in more detail some ideas we have discussed concerning what we should do now, in the time we have left, and to offer some additional suggestions. These proposals are designed to help the Commission focus its priorities over the next several months, minimize the loss of television service next February, and help restore service as quickly as possible wherever

[1]The lessons of Wilmington may be limited in this regard, given that the rest of the country is unlikely to receive the kind of intensive, hands-on outreach that Wilmington received.

disruption occurs. As detailed in the attached appendix, I believe that the Commission should take the following steps:[2]

1. ***Conduct additional field testing***
2. ***Dedicate a special FCC Team to the needs of at-risk communities***
3. ***Ramp up the FCC Call Center***
4. ***Prepare comprehensive DTV contingency plans***
5. ***Create an online DTV Consumer Forum***
6. ***Educate consumers on DTV trouble-shooting, including antenna issues and the need to "re-scan" converter boxes and sets***
7. ***Ensure that broadcasters meet their construction deadlines***
8. ***Encourage the rapid deployment of small, battery-powered DTV sets***
9. ***Find a way to broadcast an analog message to consumers following the transition***

In making these proposals, I do not in any way mean to diminish the tireless outreach efforts of Commission staff—particularly over the past several months. They have done a truly impressive job. And I am most appreciative of your commitment to make the transition work. I also welcome the consumer outreach and other measures that industry has taken and will continue to take. I appreciate and commend all these efforts—although I still wish we had a more integrated and coordinated public-private partnership to tackle this huge challenge. The climb before us strikes me as daunting as ever and time is growing short. I look forward to discussing these proposals further with you and working together to make this transition as smooth as possible for the American people.

Warm regards,

Michael J. Copps

[2]Each of these proposals can be initiated on our own authority. I therefore do not include potentially helpful proposals that would require others to act—such as creation of a federal inter-agency DTV task force (which I've long advocated) or changes to the converter box coupon program. I would note that serious concerns have been raised about the converter box program, including the extent to which NTIA will be able to redistribute unredeemed and expired coupons (currently less than half of the coupons that have reached their expiration date were redeemed prior to expiration).

Steps the FCC Should Take to Advance the DTV Transition

1. Conduct additional field testing. I greatly appreciate your efforts and the public service of the people of Wilmington for taking the idea of a full-scale test market and making it a reality. And I agree with you that the ultimate success of the test will be determined not by what happened in Wilmington last Monday, but by what we learn and apply to the rest of the country before next February. I regret that broadcasters in other markets have not stepped forward to do similar full-scale tests in markets with different topographies and demographics. The relatively flat and unobstructed terrain in Wilmington, for instance, limited the lessons we can learn about how digital signals travel in urban areas with tall buildings or in areas with mountains, valleys or other challenging terrain.

In my letter to you of last March proposing test markets, I stated that whether or not we are able to conduct full-scale testing, there are a number of more limited DTV field tests that we can and should conduct in advance of the transition date. Such tests would not raise the logistical concerns of a full-scale trial because the analog broadcast signals in these markets would remain. Even at this late date, this kind of limited field testing could provide valuable "lessons learned" that could be applied to the nationwide transition next February.

Action Item: The Commission should conduct field tests in various markets, focusing on DTV reception issues. These tests would examine issues such as the digital "cliff effect"[1] and whether consumers are able to receive all of the stations they received in analog with their existing antenna set-up or whether they need to move their antenna or buy a new one—*e.g.*, an outdoor antenna where an indoor antenna worked in analog, which could be a hazardous prospect for many consumers to contemplate in the middle of the winter. These tests should take consumers as we find them, not as broadcast engineers assume them to be (we should not assume, for example, that every consumer has a 30-foot outdoor antenna). To make the tests most useful, we should partner with broadcasters or other local organizations to enlist the participation of actual consumers trying to make the switch in their homes. These real-world "lessons learned" would help us focus our message and plan the kind of support consumers will need nationwide.

2. Dedicate a special FCC Team to the needs of at-risk communities. Many communities (*e.g.*, minorities, non-English-speakers, low-income consumers, the elderly, Native Americans, rural residents, people with disabilities) disproportionately rely on over-the-air service, are more difficult to reach, and often face special challenges in obtaining, installing and using digital equipment. These communities may be the last to learn about the transition, face the most hurdles, and have the most to lose. A successful transition requires targeted, ongoing outreach and assistance for these communities.

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[1] An analog TV signal that is weak or receives interference may display static or snow, but often the picture will be watchable through the noise. By contrast, digital TV signals can provide a clear picture even with a weak signal or in the presence of interference. But if the digital signal falls below a certain minimum strength, the picture can disappear entirely. This "cliff effect" means that some consumers that received watchable—albeit not perfect—signals in analog may lose those signals entirely when they transition to digital unless they adjust or upgrade their antenna.

I recognize that a large part of our DTV outreach efforts have been directed at at-risk communities. In particular, I commend the workshops you have held at the FCC to focus on these issues, the efforts to make publications and other information accessible to non-English-speakers and the disabled community, and the personal outreach our staff has conducted in many of these communities. But we must do more.

Action Items: The Commission should dedicate particular FCC staff to work with each community designated as "at-risk." The FCC staff would be publicly identified as working with a particular at-risk community and they would be given no other responsibilities other than to work with that community on the transition. Staffers who spend full-time working with specific at-risk communities will be able to immerse themselves in the unique issues and institutions unique to these communities, build trust, and maintain close contact in a way that broader efforts cannot. Dedicating specific FCC staff to specific at-risk communities will also give those communities a single point of contact at the FCC, and provide us internally with the kind of specialized knowledge that may prove invaluable in the coming months.

In addition, the FCC should immediately implement the October 2007 recommendation (reiterated in June 2008) from its Consumer Advisory Committee to convene a working group on digital closed captioning that includes representatives from the broadcast, cable and satellite industries, consumer electronics manufacturers and retailers, and captioning providers and consumers. The working group would: (1) identify current and anticipated problems with the transmission and display of digital captioning; (2) evaluate the captioning capabilities of digital equipment; and (3) develop solutions to ensure that captions are passed through intact to the consumer.

3. Ramp up the FCC Call Center. While many consumers will have no difficulties transitioning to digital, others will not have it so easy. They may find installation of a converter box technically daunting or physically difficult. Or they may properly install a converter box only to find that they can no longer receive one or more stations that they were able to receive in analog. In Wilmington, 1,536 residents called the FCC or their local broadcaster or cable operator for help in the two days following the switch-over. Extrapolating from this number is dangerous, especially since: (1) the percentage of Wilmington households that rely exclusively on over-the-air service is only about ***half*** of the national average; (2) consumers nationally will not receive the intensive on-the-ground outreach that Wilmington residents received; (3) the relatively flat terrain in Wilmington may not reflect the reception issues that other markets will experience. Those factors would argue for a higher level of disruption nationwide. For illustrative purposes, however, and conservatively assuming that the number of calls would have increased by 50% if Wilmington had twice the number of over-the-air-exclusive households—thus tracking the national average—the total number of calls would have been 2,304—or 1.28% of the 180,000 total households in the market. Assuming 114.5 million TV households in the U.S., that could mean that 1.46 million consumers could be looking for answers when full-power analog broadcasting ends next February.

Action Item: The Commission should significantly ramp up its Call Center operations. Augmented front-line staff should be trained to identify the nature of consumer problems and solve them if they can. If the front-line staff cannot resolve a particular issue, they should have resources at their disposal to refer the inquiry to the proper venue. Technical staff should be on duty for specific questions about converter boxes, antennas or other issues. These staffers should have access to every government-certified converter box (and its installation instructions) on the market. I understand that something like this approach is being used to handle the calls from Wilmington, but the level of staffing and training needed to handle calls from a single market with 180,000 households is tiny compared to what will be required to handle calls from 210 markets with over 114 million households.

For consumers who need more hands-on assistance, the Commission should facilitate the development of local partnerships—*e.g.*, civic, religious, and other community groups; local fire or police departments and other public entities; local phone companies, cable companies, retailers and other businesses. FCC staff could refer appropriate cases to these entities for the kind of hands-on assistance that many consumers will need—not only prior to the transition but in its aftermath to restore any service losses as quickly as possible.

4. Prepare comprehensive DTV contingency plans. The February 17, 2009 deadline is a hard date. We have only one chance to get this right. We must be prepared—as much as humanly possible—for whatever occurs. There is no precedent for what we are about to do. We must create a playbook from scratch. We can learn a great deal from Wilmington and from the experiences of other countries, but the scope and scale of what will happen next February is unprecedented. The more potential problems we can anticipate and plan for, the better off we will be.

Action Item: The Commission should strengthen its relationship with NTIA by establishing a joint working group to coordinate and prepare detailed contingency plans for the transition, in consultation with Congress, industry, and other interested stakeholders. This working group would focus on three time periods, each of which has its own challenges—the days and weeks leading up to the transition, the transition date itself, and its aftermath.

5. Create an online DTV Consumer Forum. Each consumer will face a unique set of issues in transitioning to digital—we live in different communities with different topographies; we own different types of television sets, antennas and converter boxes; we possess different levels of technical and physical abilities, etc. These unique characteristics limit the usefulness of top-down, one-size-fits-all outreach which cannot address the specific situations in which consumers find themselves or help them trouble-shoot as they go through this challenging process.

Action Item: We should establish a Consumer Forum on the FCC website for consumers confronting similar issues to talk to and learn from each other. People in the same community could discuss how to get good reception from different stations and

which local retailers have which converter boxes in stock. Consumers who have purchased converter boxes could connect with others across the country who bought similar boxes to discuss capabilities and installation issues. Individuals who have connected a converter box and are having difficulty getting reception could seek trouble-shooting advice from those who have faced similar problems. People with disabilities or non-English speakers could get advice from others who share their special needs.

The sooner we launch such a forum the sooner we can begin to develop the knowledge base. Indeed, most leading high-tech and consumer electronics companies sponsor message boards on their websites so consumers can share information about their products. While there is always a chance of inaccurate or incomplete information being posted, the benefits would far outweigh the risks. Good information will generally squeeze out bad information, and FCC staff can weigh in if misinformation is brought to our attention—just as private companies do.

*6. **Educate consumers on DTV trouble-shooting, including antenna issues and the need to "re-scan" converter boxes and sets.*** As the Wilmington test demonstrated, for many consumers the last steps will be the most difficult. People may have learned about the transition, researched what they need to do, obtained the government coupons, compared various converter boxes, and ultimately purchased a box and brought it home. They will hopefully have followed the instructions and connected the box to their old analog set. But when they turn the set on, they may still be unable to get a picture or they may have lost some of the channels they formerly watched in analog. Many will have no idea why or even know the right questions to ask. Do they know about the digital "cliff effect"? Do they know that some antennas are VHF-only and that many stations are moving to the UHF band? Do they know that low power stations may still be broadcasting in analog and, assuming they have purchased a converter box that will pass those signals through, how to navigate to those channels? Do they know that hundreds of stations across the country will be changing channels at the end of the transition and they may need to "re-scan" their converter box or DTV set when they wake up on February 18 in order to find the new channel locations?

Action Item: We should develop and disseminate trouble-shooting checklists for consumers facing these real-world issues, including re-scanning, antenna functionality and the digital "cliff effect." Ideally, this information would be tailored to specific markets—*e.g.*, telling consumers that a particular station is changing channels on a particular date and that they may need to re-scan their converter box or DTV set, or that a particular station is broadcasting at lower power during the transition.

*7. **Ensure that broadcasters meet their construction deadlines.*** Consumers will only be able to receive digital signals next February to the extent that broadcasters are transmitting them. The Media Bureau's recent report stated that 1,002 broadcasters are operating in digital with completed post-transition facilities but over 700 others are not.

Action Item: We must do everything we can to ensure that the stations that have not completed their post-transition digital facilities meet their deadlines. While at this point

none of these stations has said that it will not be ready by February 17, 2009, the fact that 63 of 82 stations with a final construction deadline of May 18, 2008 filed for (and received) six-month extensions does not inspire confidence and puts additional pressure on the transition's final weeks. Stations that have not fully constructed by October 20, 2008 must file another status report on that date. The Media Bureau should issue a status report within two weeks of that date on the status of the final build-out and any problems that remain.

8. Encourage the rapid deployment of small, battery-powered DTV sets. As consumers reminded us again during the recent hurricane preparations, small, battery-powered analog TVs generally will not work after the transition.[2] Yet thousands, if not millions, of people have these small battery-powered analog TVs as part of their emergency preparedness plans. I understand that the cheapest battery-powered digital television available today costs approximately $200.[3]

Action Item: The Commission should determine where development of small, battery-powered DTV sets currently stands and work with industry to ensure that these products are on the market in sufficient numbers by the next hurricane season.

9. Last, but by no means least, find a way to broadcast an analog message to consumers after the transition. As we found in Wilmington, no matter how many PSAs are run or how much outreach we do, there will be some consumers who will not be prepared for the transition on February 17. These consumers need to understand what happened to their television service and where they can turn for help. In Wilmington, the local broadcasters transmitted such a message on their analog channels after the switch-over earlier this week. Of the 1,536 consumers who sought help, almost 80% called the FCC phone number provided in the broadcasters' analog message.

Action Item: The Commission should search for a way to broadcast an analog message for a short period (*e.g.*, two weeks) after the transition. The message would tell consumers what happened to their signals and where they can call for help. It could also provide urgent weather and other emergency information. We should develop market-by-market plans, based upon factors such as channel and transmitter availability, the presence of analog low-power stations, and industry willingness to participate. If necessary, the Commission should consider recommending a statutory change to Congress.

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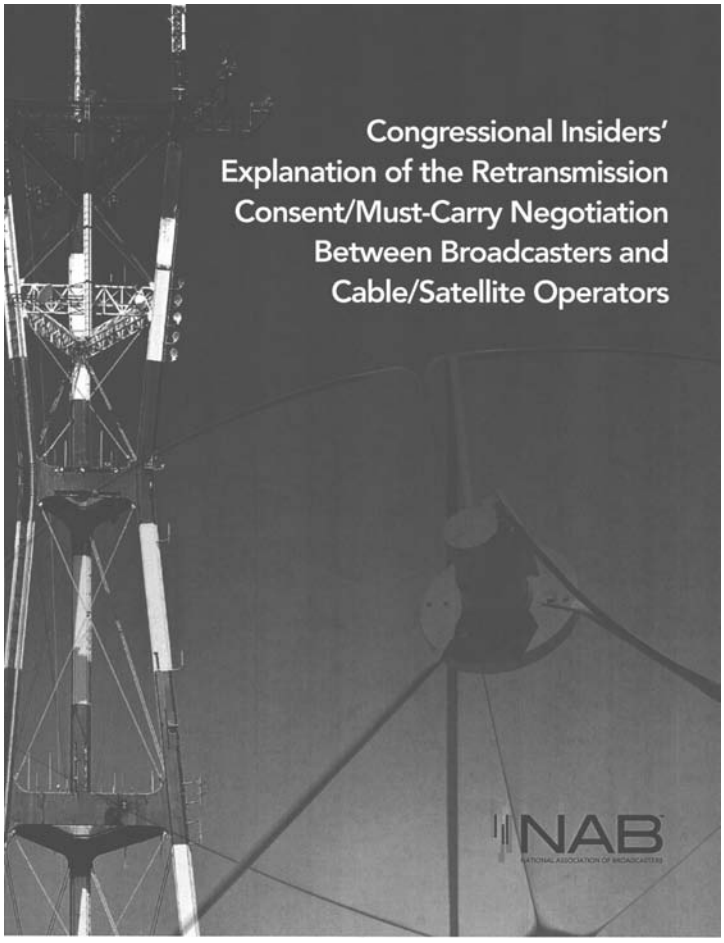
[2] These battery-powered sets may, of course, continue to receive low-power stations still broadcasting in analog after the full-power transition date.

[3] One manufacturer has recently introduced an external battery pack that consumers can attach to its converter box in the event of a power outage. While this is certainly a helpful development, the battery pack will only work with a particular converter box, and many small, handheld analog sets have built-in antennas that do not have an antenna input to which a converter box can connect.


Congressional Insiders'
Explanation of the Retransmission
Consent/Must-Carry Negotiation
Between Broadcasters and
Cable/Satellite Operators
NAB

Start Here

In 1992, Congress passed the Cable Television Consumer Protection and Competition Act ("The Act"). The Act, designed to give consumers more and better choices to cable, provided that every three years, commercial TV stations elect between must carry and retransmission consent ("RC"). Congress later extended RC to satellite local-into-local and other retransmitters of broadcast signals. Next formal election by 10/1/08 is effective 1/1/09, but RC deals can last more than three years.

Must Carry

If a broadcaster chooses must carry, they receive no compensation for use of their signal, but are assured carriage and channel position. Consumers benefit because they are assured access to the diversity of broadcast signals available in their community.

Retrans

If a broadcaster elects RC, it gives up any assurance of carriage or of a desirable channel position. All terms and conditions of carriage are subject to negotiation.

Level playing field – All RC negotiations start with a level playing field. Both broadcasters and cable systems negotiate all terms. Both broadcasters and cable have public, political and market pressure to complete a deal.

RC Negotiations: more than money – RC negotiations are complex business dealings that involve many variables beyond cash payments, including program insertion options, spot sales, fiber runs between transmitter and headends, promotion spot guarantees, channel position and tier placement, DTV channel carriage, distribution and construction costs, studio/personnel/equipment sharing deals and news insertion options, to name a few. This is precisely the process Congress envisioned. The Senate Report explaining The Act noted: "Often broadcasters may not seek monetary compensation, but instead negotiate other issues with cable systems such as joint marketing efforts, the opportunity to provide news inserts on cable channels, or the right to program an additional channel on the cable system."

Exclusive deals prohibited – Broadcasters are prohibited from providing RC to just one cable or satellite operator. They cannot provide consent to one such operator and refuse to negotiate with any other. Consumers benefit from this prohibition because it helps assure multiple sources from which to obtain local broadcast signals.

Good Faith

Both parties are required to negotiate in "good faith," as defined by the FCC. FCC has enforcement authority to deal with failure to negotiate in good faith. Good faith does not mean an agreement for retransmission must be reached. Consumers benefit because the FCC can facilitate negotiations that break down because one party is not fairly considering the other party's offer.

Good Faith Enforcement -- A structured complaint process provides both cable and satellite and broadcasters a clear path for grievances when RC negotiations break down due to bad faith. Of the tens of thousands of RC deals completed since 1992, only a handful of cases have been referred to the FCC. No broadcaster has ever been found by the FCC to violate the good faith obligations.

Full Signal Carriage – Currently, RC is the only way stations on cable or satellite can provide consumers with the benefits of the multiple digital channels they are offering. Because there is no requirement to carry these multiple channels, absent RC consumers will spend billions for new digital sets that, if hooked up to cable or satellite, will not receive these extra channels.

Bottom Line

The system works. The market works. Consumers benefit.

FCC Report

In a 9/05 Congressionally-mandated exhaustive FCC review of RC, the Commission recommended no changes to the statute or its rules.

Mini History of Retransmission Consent

1934-1959

- The right of a station to authorize or prohibit other stations from retransmitting their signal was part of the Communications Act of 1934.
- In 1959, the FCC ruled that RC did not apply to cable.

1959-1991

- Cable operators grew larger and more successful in large part as Congress found "an effective subsidy of the development of cable systems by local broadcasters."

1992 - Present

- In 1992, Congress passed The Act, providing that RC does apply to cable.
- Congress' reasons for RC:
  - "a very substantial portion of fees which consumers pay to cable is attributable to the value they receive from watching broadcast signals."
  - The lack of RC has "created a distortion in the video marketplace which threatens the future of over-the-air broadcasting"
  - "The Committee … does not believe that public policy supports a system under which broadcasters in effect subsidize the establishment of their chief competitors."
  - There is a need "to ensure that our system of free broadcasting remains vibrant, and not be replaced by a system which requires customers to pay for television service."

Mini History of Must Carry Rules

1960-1980

- In the 1960s, the FCC imposed a requirement that cable systems carry local stations in order to "make television service available, so far as possible to all people of the United States in a fair, efficient and equitable basis" and that it was "of the utmost importance to the public interest that extensions of television service by the auxiliary facilities of cable be accomplished in a fair and equitable manner." In the absence of must-carry, the FCC said, a television station would "face decreased revenues and profits, which would reduce its ability to serve the public interest."

1980-Present

- In 1985 and 1987, a federal court invalidated FCC must-carry rules.
- In 1992, Congress dealt with the court's concerns and found substantial public policy reasons to restore must carry. According to Congress: "Television broadcasting's … vital role in serving the public interest … is in jeopardy if cable operators can use their market power either to refuse to carry local television broadcast signals or to extract favorable terms as consideration for carriage of those signals." Congress found that cable had denied carriage and changed the channel positions of local stations resulting in "stifling competition" and "in interfering with the ability of broadcasters to fulfill their obligations to serve their communities." Congress also noted that must carry was "part and parcel" of the compulsory license, providing free program licenses to cable.
- In 1994 and 1997, the Supreme Court affirmed the must carry rules, noting that broadcast television plays a central role in national discourse.

Consumer Benefits of Must Carry and Retransmission Consent as Defined by Congress*

- Consumers benefit from the must carry/retransmission consent system devised by Congress because it promotes the continued availability of free television programming not dictated by the cable or satellite operator — especially for viewers who are unable to afford other means of receiving programming.

- Consumers benefit from must carry requirements because they are assured access and channel placement with respect to local broadcast signals available in their community including locally originated programming that informs the electorate.

- Consumers have benefited from retransmission consent because broadcasters have used the fruits of the process to develop new programming channels including local and regional news channels.

- Consumers benefit from the must carry and retransmission consent system because it curbs the ability of cable systems to engage in anti-competitive behavior.

- Consumers benefit from retransmission consent because it provides cable and satellite subscribers access to many new digital channels.

* Cable Television Consumer Protection and Competition Act of 1992, Section 2(a)(6)-(19), Pub.Law 102-385, October 5, 1992.

NAB

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September 10, 2008

The Honorable Hilda L. Solis
U.S. House of Representatives
1414 Longworth House Office Building
Washington, DC 20515

Dear Congresswoman Solis:

The digital television (DTV) transition presents a challenge to retain uninterrupted access to critical weather and safety information for all households. AARP is particularly concerned about households at greater risk, including those with elderly and non-English speaking residents who represent a disproportionate number of analog-only households. With this concern in mind, AARP urges enactment of H.R. 5435, the DTV Border Fix Act.

This bill would allow television stations within a 50-mile radius of the US-Mexico border in Laredo, McAllen, and El Paso, Texas; Yuma, Arizona; and El Centro, California, to continue broadcasting in analog for five additional years. In these communities, many residents rely on critical programming delivered over analog.

The Act requires that a station can continue broadcasting in analog only if the FCC finds that it is in the public's interest, the channel is between 2 and 51, and the broadcast does not interfere with a digital transmission. This will ensure the nationwide conversion to digital television is not delayed while allowing the stations in several border towns to continue transmitting public safety messages in analog by providing access to fundamental services such as the Emergency Alert System (EAS) and the AMBER Alert System.

Since Congress set February 17, 2009, as the date for the transition to DTV, AARP has been actively involved in efforts to educate its 40 million members. AARP has published information in our state and national publications throughout the past year, and has been involved in a number of national and local community outreach efforts. Through our observations as a key partner with other organizations and federal agencies, we believe the transition to DTV is on track to be successful. We are also confident that this reasonable legislation will not detract from that outcome.

Jennie Chin Hansen, President
William D. Novelli, Chief Executive Officer

Representative Solis
Page 2

We therefore urge enactment of the DTV Border Fix Act to ensure that consumers along the Mexican border transition to DTV with the least amount of disruption and threat to public safety. Thanks for your leadership on this issue!

Sincerely,

David P. Sloane
Senior Vice President
Government Relations & Advocacy

cc: The Honorable Harry Reid, Senate Majority Leader
The Honorable Nancy Pelosi, Speaker of the House

Resolution - DTV Border Fix Act of 2007

WHEREAS, the continued availability of analog broadcasting is necessary to ensure that residents along the border continue to receive both Emergency Alert System (EAS) and AMBER Alert messages sent through the U.S. television broadcast system.

WHEREAS, Senator Hutchison has introduced her DTV Border Fix Act of 2007 (S. 2507) and Rep. Solis has introduced her DTV Border Fix Act (H.R. 5435), which both address public safety issues created by the nation's conversion to digital broadcasting in February of 2009.

WHEREAS, the limited scope of this bills provides broadcasters located within 50 miles of the Southern border of the United States with the opportunity to continue simulcasting in both analog and digital after February 17, 2009, for up to five years at the broadcasters' absolute discretion, provided they are also operating in the digital mode and their analog operations do not otherwise affect the FCC's conversion from analog to digital broadcasting and making portions of the 700 MHz band available for public safety and wireless communications uses.

WHEREAS, unlike its neighbors to the north, Mexico has not made preparations for a conversion to digital broadcasting. As a result, stations in Mexico will continue broadcasting in analog after the United States has switched to digital only broadcasting. This includes both Telemundo and Univision stations, which are the major Spanish-language broadcasters in the United States. The availability of Spanish language programming along the Southern border (post-transition), without the need to either subscribe to a pay television service or obtain a converter box, creates a series of problems unique to this area of the country

WHEREAS, even if outreach and awareness efforts are wildly successful, we believe that the availability of Spanish language television channels originating in Mexico will dissuade many residents from undertaking the necessary steps to prepare for the transition. Some households cannot afford pay television subscriptions or even subsidized converter boxes for all of the televisions and analog media devices in their homes. Others will be deterred from obtaining coupons or converter boxes because of concerns about their legal status.

WHEREAS, the traditional over-the-air broadcast industry is an "ad supported" business. The most significant source of revenue for these broadcasters comes from advertising contracts signed with various sponsors. The ad rates are generally based on the overall viewership and viewership during particular time slots. If viewership of the domestic broadcasters in the border region fall dramatically after the transition because of the availability of alternative analog programming, the operating revenue of the domestic stations will also fall and could threaten their continued operation. These local broadcasters are an important source of employment and the cultural identity of the communities they serve.

WHEREAS, while the United States is currently working with Mexico on an effort to make AMBER Alert messages available over Mexican broadcast stations, at this time EAS and AMBER Alert messages are delivered only by the domestic providers outlined above. This means that at least until Mexican stations begin broadcasting these messages, each household that obtains their television signals exclusively from Mexican broadcasters will not receive these important messages. While these alerts are available over traditional radio stations as well, television is perhaps the most commonly viewed media distribution mechanism. The lack of access to EAS and AMBER Alert messages by some residents poses an unacceptable public safety risk, and in the case of the AMBER Alert system compromises the overall effectiveness of the system by limiting the

number of individuals receiving the alerts.

WHEREAS, the bills are limited in scope and provides that the FCC retains broad authority to deny stations in the affected area the ability to simulcast in analog and digital if it does not serve the public interest. Specifically, stations allowed to simulcast may not cause interference with other full power stations or public safety applications. In addition, if the FCC believes that granting a station a renewal of its analog broadcast license will interfere with the recovery and auction of spectrum, it may refuse to grant the application.

WHEREAS, this bill applies only to stations within 50 miles of the common border with Mexico and in effect, is limited to the areas of Laredo, McAllen, and El Paso, Texas and Yuma, Arizona/El Centro, California.

WHEREAS, the FCC recently studied the language in the Senate bill specifically looking at the Senate bill in order to determine if they felt it would pose a danger to the digital television transition, lead to potential interference, or adversely affect the 700 MHz auction. After review by the Wireless Telecommunications Bureau, the Office of Engineering and Technology, and the Office of the Chairman, the FCC is satisfied that the bill does not pose a risk to the transition or the auction.

WHEREAS, we believe that no community or group of people in the United States should be left behind without access to public safety systems as a result of the Digital Transition that will take place in February of 2009

NOW, THEREFORE, BE IT RESOLVED BY THE [NAME OF ORGANIZATION] that:

Section 1: We call on the U.S. Congress to pass S. 2507 & H.R. 5435 to ensure that residents along the U.S. Mexico Border are not left in the dark without access to fundamental services such as the Emergency Alert System (EAS) which provides important information on public safety, public health, homeland security and hazardous weather and the Amber Alert System

Section 2: We call on President George W. Bush to sign into Law this legislation

Section 3: The [SECRETARY OF THE NAME OF ORGANIZATION] is directed to transmit a certified copy of this resolution to the Director of the USCIS, to the President of the United States, the Speaker of the United States House of Representatives, and the President Pro Tempore of the U.S. Senate for inclusion in the Congressional Record.

Approved this 11th day of July 2008.
Rosa Rosales
LULAC National President

July 9, 2008

United States House of Representatives
Washington, DC 20515

Dear Representative:

The Mexican American Legal and Educational Fund (MALDEF) supports H.R. 5435, the DTV Border Fix Act, and commends your leadership on this critical issue. After February 17, 2009, America's television broadcast signal will be offered only in digital format. Efforts have been made to notify the public of the change, but H.R. 5435 will address one of the outstanding obstacles to the transition: even if outreach and awareness efforts are successful, the availability of Spanish language television channels originating in Mexico will dissuade many residents from undertaking the necessary steps to prepare for the transition. Some households cannot afford pay television subscriptions or even subsidized converter boxes for all of the televisions and analog media devices in their homes.

In addition to allowing residents to continue receiving certain programming, the DTV Border Fix Act will enable emergency messages to continue reaching affected residents. Currently, EAS and AMBER Alert messages are carried only by domestic broadcasters. Consequently, households which obtain their television signals exclusively from Mexican broadcasters will not receive these important messages.

H.R. 5435 is specifically tailored to address the problem outlined above. The bill is limited in scope and allows the FCC to retain broad authority to deny stations in the affected area the ability to simulcast in analog and digital if doing so does not serve the public interest. In particular, stations allowed to simulcast may not cause interference with other full power stations or public safety applications. Geographically, this bill applies only to stations within 50 miles of the common border with Mexico and in effect, is limited to the areas of Laredo, McAllen, and El Paso, Texas and Yuma, Arizona/El Centro, California.

The DTV Border Fix Act will help our country make an important technological transition. MALDEF supports H.R. 5435 and would be glad to answer any questions. Peter Zamora, MALDEF's Washington D.C. Regional Counsel, may be reached at 202-293-2828.

Sincerely,

John Trasviña
President and General Counsel

Educational Fund *facilitating full Latino participation in the American political process*

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Executive Director
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July 09, 2008

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
H-232
Washington, DC 20515

The Honorable Robert Byrd
President Pro Tempore
U.S. Senate
311 Hart Senate Office Building
Washington, DC 20515

Dear Speaker Pelosi and Senator Byrd:

As the February 2009 deadline for digital transition draws near, the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund recognizes the significance of this issue in our mission to facilitate full Latino participation in the American political process. Ensuring that Latinos have access to televised information is crucial to multiple NALEO Educational Fund programmatic initiatives to inform the community of salient issues. However, we also recognize that the continued availability of analog broadcasting is necessary to ensure that residents along the border continue to receive both Emergency Alert System (EAS) and AMBER Alert messages sent through the U.S. television broadcast system. For this reason I am writing to you in support of the DTV Border Fix Act of 2007 (S. 2507) introduced by Senator Kay Bailey Hutchison and the House Companion bill (H.R. 5435) introduced by Rep. Hilda Solis which both address public safety issues created by the nation's conversion to digital broadcasting in February of 2009.

The limited scope of this bills provides broadcasters located within 50 miles of the Southern border of the United States with the opportunity to continue simulcasting in both analog and digital after February 17, 2009, for up to five years at the broadcasters' absolute discretion, provided they are also operating in the digital mode and their analog operations do not otherwise affect the FCC's conversion from analog to digital broadcasting and making portions of the 700 MHz band available for public safety and wireless communications uses. Unlike our country's planned transition, Mexico has not made preparations for a conversion to digital broadcasting. As a result, stations in Mexico will continue broadcasting in analog after the United States has switched to digital only broadcasting. This includes both Univision and Telemundo stations, which are the major Spanish-language broadcasters in the United States. The availability of Spanish language programming along the Southern border (post-transition), without the need to either subscribe to a pay television service or obtain a converter box, creates a series of problems unique to this area of the country.

Even if outreach and awareness efforts are wildly successful, we believe that the availability of Spanish language television channels originating in Mexico

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will dissuade many residents from undertaking the necessary steps to prepare for the transition. Some households cannot afford pay television subscriptions or even subsidized converter boxes for all of the televisions and analog media devices in their homes. Others will be deterred from obtaining coupons or converter boxes because of concerns about their legal status.

As you know, the traditional over-the-air broadcast industry is an "ad supported" business. The most significant source of revenue for these broadcasters comes from advertising contracts signed with various sponsors. The ad rates are generally based on the overall viewership and viewership during particular time slots. If viewership of the domestic broadcasters in the border region fall dramatically after the transition because of the availability of alternative analog programming, the operating revenue of the domestic stations will also fall and could threaten their continued operation. These local broadcasters are an important source of employment and the cultural identity of the communities they serve.

While the United States is currently working with Mexico on an effort to make AMBER Alert messages available over Mexican broadcast stations, at this time EAS and AMBER Alert messages are delivered only by the domestic providers outlined above. This means that at least until Mexican stations begin broadcasting these messages, each household that obtains their television signals exclusively from Mexican broadcasters will not receive these important messages. Despite the fact that these alerts are available over traditional radio stations as well, television is perhaps the most commonly viewed media distribution mechanism. The lack of access to EAS and AMBER Alert messages by some residents poses an unacceptable public safety risk, and in the case of the AMBER Alert system compromises the overall effectiveness of the system by limiting the number of individuals receiving the alerts.

We understand that this bill applies only to stations within 50 miles of the common border with Mexico and in effect, is limited to the areas of Laredo, McAllen, and El Paso, Texas and Yuma, Arizona/El Centro, California. We are also aware that the FCC recently studied the language in the Senate bill specifically looking at the Senate bill in order to determine if they felt it would pose a danger to the digital television transition, lead to potential interference, or adversely affect the 700 MHz auction. After review by the Wireless Telecommunications Bureau, the Office of Engineering and Technology, and the Office of the Chairman, the FCC is satisfied that the bill does not pose a risk to the transition or the auction.

The NALEO Educational Fund respectfully asks you to support and pass S. 2507 & H.R. 5435 to ensure that residents along the U.S. Mexico Border are not left in the dark without access to fundamental services such as the Emergency Alert System (EAS) which provides important information on public safety, public health, homeland security and hazardous weather and the Amber Alert System. Should you have any questions, please contact Mr. William Ramos, the NALEO Educational Fund's Washington, DC office director at 202-546-2536 or at wramos@naleo.org. Thank you for your consideration of our views.

Sincerely,

Arturo Vargas
Executive Director

Cc: The Honorable George W. Bush, President of the United States
Latino Members of Congress

Janet Murguía
President and CEO

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August 17, 2008

The Honorable Nancy Pelosi
Speaker of the House of Representatives
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

We write in support of the "DTV Border Fix Act of 2007 (H.R. 5435)," which addresses public safety issues that have surfaced as a result of the upcoming transition to digital broadcasting in February of 2009.

The National Council of La Raza (NCLR), the largest national Hispanic civil rights and advocacy organization in the U.S., has been involved in outreach efforts related to the DTV transition for the past several years. We are working with a broad array of organizations— including the broadcast industry, federal government, and civil rights entities—to ensure that information on how to effectively navigate the transition reaches all affected communities.

Nonetheless, despite these efforts and for a number of reasons, it is now apparent that a significant number of people, especially in the Latino community, will not be digital broadcast-ready by February 2009. This is particularly true along the U.S.-Mexico border where there are a large number of television stations in Mexico which will continue to broadcast in analog and who do not, as a matter of course, broadcast warnings disseminated through the Emergency Broadcasting System (EBS) or Amber Alerts. One likely and dangerous consequence of this is that hundreds of thousands and perhaps millions of people who may shift their viewing patterns toward those remaining analog stations will not have access to these critical emergency warning systems.

The "DTV Border Fix Act," sponsored by Representative Hilda Solis (D-CA) in the House and Senator Kay Bailey Hutchinson (R-TX) in the Senate, is a modest effort limited in scope to preserve and safeguard public safety within 50 miles of the U.S.-Mexico border. It will allow U.S. broadcasters in the area to continue broadcasting in analog for up to five years as long as it does not otherwise interfere with the Federal Communications Commission's (FCC) digital conversion or with the public interest in the area.

We believe that this is a simple, discrete solution to a potentially significant public safety concern. We urge you to swiftly pass this legislation to ensure that people along the U.S.-Mexico border remain under the umbrella of our lifesaving emergency warning structure without interruption.

Sincerely,

Janet Murguía

Janet Murguía
President and CEO

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