

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
DTV Consumer Education Initiative	)	WB Docket No. 07-148
	)	

**COMMENTS OF THE NATIONAL ASSOCIATION  
OF TELECOMMUNICATIONS OFFICERS AND ADVISORS  
AND THE NATIONAL ASSOCIATION OF COUNTIES  
IN RESPONSE TO THE NOTICE OF PROPOSED RULEMAKING**

**I. INTRODUCTION**

The National Association of Telecommunications Officers and Advisors (“NATOA”) and the National Association of Counties (“NACo”) submit these comments in response to the Notice of Proposed Rulemaking (“NPRM”), released July 30, 2007, in the above-captioned proceeding.

NATOA’s membership includes local government officials and staff members from across the nation whose responsibility is to develop and administer communications policy and the provision of services for the nation’s local governments.

NACo is the only national organization that represents county governments in the United States. It serves as a national advocate for counties; acts as a liaison with other levels of government; and provides legislative, research, technical and public affairs assistance to its members.

Local governments have long advocated for customer service protections and consumer education efforts. We believe that communications service providers and

manufacturers must give the American public complete and accurate information about their services and products. Further, we believe that they should establish programs to fully inform customers about their rights and responsibilities and make efficient use of web sites, cable systems, mailings, and other useful means to continually provide consumer education. Indeed, NATOA and NACo are aggressively informing their members of the need to educate their constituents of the upcoming transition.<sup>1</sup>

It is with these policies in mind that we file these comments with the Commission.

## **II. THE NOTICE OF PROPOSED RULEMAKING**

February 17, 2009 is the final deadline for the transition of analog television to digital television. At that time, all analog broadcasting will stop and television sets without digital-to-analog converter boxes will be unable to show over-the-air programming. It is estimated that approximately “20 to 21 million households . . . rely exclusively upon over-the-air television to get their signals.”<sup>2</sup> To help “ensure that millions of American television sets do not go dark,”<sup>3</sup> Congress directed the National Telecommunications and Information Agency (“NTIA”) to “administer a \$990 million program to distribute up to two \$40 coupons per household toward the purchase of an

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<sup>1</sup> For example, the DTV transition will be discussed during a general session of NATOA’s Annual Conference in Portland, OR, October 2-6, 2007, and Commissioner Jonathan Adelstein is authoring an article on the importance of the transition for the Fall 2007 issue of NATOA’s *Journal*. Further, both NATOA and NACo are members of the DTV Transition Coalition, whose core mission is to “ensure no consumer is left without broadcast television due to a lack of information about the transition.” See [http://www.dtvtransition.org/index.php?option=com\\_content&task=view&id=12&Itemid=26](http://www.dtvtransition.org/index.php?option=com_content&task=view&id=12&Itemid=26).

<sup>2</sup> Greg Tarr, *CEA Panel Sees Need For DTV Education*, TWICE, March 27, 2007, available online at <http://www.twice.com/index.asp?layout=articlePrint&articleID=CA6428375>.

<sup>3</sup> Letter from the Honorable John D. Dingell, Chairman of the Committee on Energy and Commerce, and the Honorable Edward J. Markey, Chairman of the Subcommittee on Telecommunications and the Internet, U.S. House of Representatives, to the Honorable Kevin J. Martin, Chairman, the Honorable Michael J. Copps, Commissioner, the Honorable Jonathan S. Adelstein, Commissioner, the Honorable Deborah Taylor Tate, Commissioner, and the Honorable Robert M. McDowell, Commissioner, Federal Communications Commission, May 24, 2007 (“Letter”) at 1.

analog-to-digital converter box.”<sup>4</sup> However, “[a] critical component for achieving a successful digital television transition is consumer education” and concerns have been raised that there has been little “articulation or movement toward a comprehensive consumer education program, with a unified message, a clear chain of command, concrete and measurable goals, and mechanisms for oversight and accountability.”<sup>5</sup>

Indeed, it appears these concerns are justified. According to a recent poll conducted by the Association of Public Television Stations, “over 60 percent of consumers “have no clue” about the digital television transition.”<sup>6</sup>

Congressmen John Dingell and Edward Markey have raised concerns with the “pace and scope of consumer education about the transition” through a letter sent to the Commission.<sup>7</sup> In their letter, the Congressmen suggested a number of consumer education proposals, including:

- Require television broadcasters to air periodic public service announcements and a rolling scroll about the digital transition;
- Require broadcast licensees and permittees to report, every 90 days, their consumer education efforts, including the time, frequency, and content of public service announcements aired by each station in a market, with civil penalties for noncompliance;
- Require as a license condition or through customer service or other consumer protection or public interest requirements, all multichannel video programming distributors (MVPDs) to insert periodic notices in customer bills that inform consumers about the digital television transition and their customers’ future viewing options, with civil penalties for noncompliance;
- Require manufacturers to include information with television receivers and related devices about the transition, with civil penalties for noncompliance;

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<sup>4</sup> Press Release of Senator Claire McCaskill, August 9, 2007, available online at: <http://mccaskill.senate.gov/record.cfm?id=280837>

<sup>5</sup> *Id.*

<sup>6</sup> Greg Tarr, *CEA Panel Sees Need For DTV Education*, TWICE, March 27, 2007, available online at <http://www.twice.com/index.asp?layout=articlePrint&articleID=CA6428375>.

<sup>7</sup> *See* Letter.

- Consider having the Commission work with NTIA to require retailers who participate in the converter box coupon program to detail their employee training and customer information plans and have Commission staff conduct spot inspections to ascertain whether such objectives are being met at stores; and
- Require partners identified on the Commission’s digital television Web site to report their specific consumer outreach efforts.<sup>8</sup>

In response to the letter, the Commission released this Notice of Proposed Rulemaking (“NPRM”), seeking comment on the “specific actions” suggested by the Congressmen and whether the Commission has the “authority to take these actions” or “any other measures . . . to facilitate the transition.”<sup>9</sup>

We applaud the Commission’s action in initiating this NPRM and encourage the Commission to take the steps necessary, within its statutory authority, to help ensure that all American consumers are educated concerning this important issue. We are encouraged by the actions the Commission has taken against retailers who have failed to display the proper Consumer Alert label informing customers that the equipment has only an analog tuner. The Commission has reportedly issued hundreds of citations since May 31, 2007.<sup>10</sup>

Further, we congratulate the National Association of Broadcasters (“NAB”) for its efforts to educate the public about the upcoming transition. In its August 21, 2007 letter to Chairman Martin, the NAB outlined a number of educational proposals (some of which echo those suggested by Congressmen Dingell and Markey) by which it seeks to

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<sup>8</sup> See Letter.

<sup>9</sup> *In re the Matter of DTV Consumer Education Initiative* (“NPRM”), MB Docket No. 07-148, ¶2 (rel. July 30, 2007).

<sup>10</sup> John Eggerton, *FCC Warns Retailers To Label Analog-Only Sets Online*, *Broadcasting & Cable*, June 7, 2007, available online at: <http://www.broadcastingcable.com/article/CA6449958.html>.

“educate consumers everywhere about the mandatory upgrade to digital television,”<sup>11</sup> including the use of on-air public service announcements and television “crawls”.<sup>12</sup> The NAB is also engaged in paid media and marketing plans that will target public transportation hubs and newspapers. And the NAB has engaged in various efforts to spread the word concerning the impact of the transition by contacting all members of Congress, attending numerous regional and national conferences, and by “spearheading a national DTV Speakers Bureau to directly educate consumers on the transition with over 8000 speaking engagements nationwide.”<sup>13</sup>

We are also encouraged by the efforts of other organizations to educate the public on various aspects of the transition, such as the Consumer Electronics Association, which seeks to inform the public on how to safely dispose of or recycle analog sets.

However, we are concerned that little, if any, attention has been paid to the role that local governments will play in the upcoming transition. This is especially worrisome in light of the fact that local authorities – and not the FCC – may well find themselves responding to consumer complaints when customers find themselves without over-the-air service on February 19, 2009.

With this fact in mind, we urge the Commission to heed Congressman Dingell’s and Markey’s suggestion that the Chairman use Commission resources “creatively and expansively in support of a national consumer education and outreach campaign” and “develop and implement an outreach component to each of the Commission’s advisory

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<sup>11</sup> Letter from Jack Sander, Joint Board Chair, National Association of Broadcasters, to the Honorable Kevin J. Martin, Chairman, Federal Communications Commission, August 21, 2007, *available online at: [http://www.nab.org/xert/corpcomm/pressrel/releases/082107\\_Sander\\_FCC\\_DTV.pdf](http://www.nab.org/xert/corpcomm/pressrel/releases/082107_Sander_FCC_DTV.pdf)*.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

committees, including the . . . Intergovernmental Advisory Committee.”<sup>14</sup> Unfortunately, while the Commission announced the rechartering of the IAC on June 8, 2007, no members have yet been named nor has an initial meeting been announced. This is troubling in that the Commission, when it rechartered the IAC, publicly stated that

“a principal focus of the IAC for this two-year term will be the nation’s transition to digital television (DTV) as the Commission continues its efforts to assist consumers in understanding and preparing for the transition which, by law, must be completed by February 17, 2009. Collaboration and coordination with local, state and tribal governments is crucial to the Commission’s goal of ensuring that all consumers, especially elderly, low-income, people with disabilities, people living in rural areas and non-English speaking consumers, are aware of the transition and understand what specific steps, if any, they must take to continue watching television after the transition is complete on February 17, 2009. The Commission looks forward to the valuable insights that the IAC will provide about working effectively with our local, state and tribal partners to educate consumers about the DTV transition.”<sup>15</sup>

Ironically, the Commission had also reauthorized the IAC in February 2006, stating that some of the principle purposes of the committee would be to examine such issues as broadband deployment and public safety communications. The DTV transition was not mentioned. In response to the Commission’s request for nominations to the IAC, local government groups submitted a list of potential nominees with expertise in the areas specifically set forth by the Commission. However, for reasons unknown, no appointments to the IAC were made.

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<sup>14</sup> See Letter.

<sup>15</sup> FCC Public Notice, June 8, 2007, *available online at:*  
[http://fjallfoss.fcc.gov/edocs\\_public/attachmatch/DA-07-2427A1.doc](http://fjallfoss.fcc.gov/edocs_public/attachmatch/DA-07-2427A1.doc).

Now, after nearly 18 months have passed, and with a new stated purpose, the Commission is again poised to appoint local government representatives to the IAC. Because of the extensive time lag and change of focus, some of the nominees may lack the expertise to participate on the committee or may, for a variety of other reasons, no longer be eligible or interested in serving on the IAC. For these reasons, we strongly urge the Commission to act immediately to solicit new nominations from the various local government stakeholders and act quickly to appoint new members and announce a meeting date.

### **III. CONCLUSION**

As the Commission itself concedes, collaboration and coordination with local governments is “crucial” in achieving the Commission’s goal to ensure that all consumers are aware of the upcoming transition. Acting quickly to name eligible local government representatives to the IAC is an important first step in ensuring that the Commission gains the “valuable insights” the IAC may offer.

Respectfully submitted,

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