SUBCOMMITTEE HEARING ON THE DTV TRANSITION AND SMALL BUSINESSES: SMALL FIRMS CONTRIBUTING TO A BIG CHANGE

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SUBCOMMITTEE HEARING ON THE DTV TRANSITION AND SMALL BUSINESSES: SMALL FIRMS CONTRIBUTING TO A BIG CHANGE

Wednesday, May 7, 2008

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Subcommittee met, pursuant to call, at 2:00 p.m., in Room 1539 Longworth House Office Building, Hon. Bruce Braley [chairman of the Subcommittee] presiding.

Present: Representatives Braley, Cuellar, Clarke, Davis, and Akin.

OPENING STATEMENT OF CHAIRMAN BRALEY

Chairman BRALEY. Good afternoon. I call this hearing to order on The DTV Transition and Small Businesses: Small Firms Contributing to a Big Change.

This afternoon, the Subcommittee will consider the impact of the Digital Television, also known as DTV, transition on small firms. Throughout our country, small companies are making significant efforts to ensure that American households are prepared for the changes that will occur in February 2009. Small broadcasters, electronics retailers, and cable and telecommunications companies all are playing a critical role in the DTV transition.

This hearing will examine those efforts and it will also consider whether there are additional actions that Congress should take in order to minimize the burden of the transition on small firms, particularly those serving in rural areas. On February 18th of 2009, television broadcasters will no longer transmit over-the-air television broadcasts in an analog format. As a result, millions of households with analog-only televisions are faced with the prospect of no longer receiving a signal unless they act. They will need to either buy a new TV or subscribe to a new video service or these Americans will be forced to purchase a digital-to-analog converter box. This transition requires a public/private partnership.

The government has enlisted the assistance of businesses, both large and small, to carry out many of these changes. Broadcasters, retailers, electronics manufacturers and video service companies are providing consumer education on the transition. Federal guidelines have also been established for equipment manufacturers and retailers participating in the converter box program.

It is critical that the efforts of the small firms are recognized and that the federal government's policies are not unduly burdensome on small firms. This is particularly important in rural areas where the broadcasters, cable companies and primary retail outlets responsible for these efforts of small businesses.

At today's hearing we will hear testimony from a number of small businesses in the affected industries. I expect that this hearing will help the Subcommittee and Congress consider more fully the impact of the DTV transition on smaller firms.

One of the issues with the transition is whether the Federal Communications Commission is accounting for the concerns of small broadcasters and cable companies. Both broadcasters and cable companies are actively promoting the transition having spent millions to educate the public and having invested in the necessary infrastructure to carry out the transition.

The Subcommittee is interested in whether the regulations issued by the FCC have taken into account the limited resources of many small broadcasters and cable companies. It may be that a greater public investment is necessary. These changes also must account for the unique needs of small companies. I know there is a concern about the must-carry requirements; resolving this issue requires balancing the resource constraints of small cable companies with consumers' legitimate interests in receiving the full benefits of digital television.

It is critical that these cable companies remain viable while addressing the concerns of TV viewers.

The role of small retailers must also be acknowledged in this transition as well. The Committee looks forward to testimony on how retailers are handling the converter box program. These retailers are on the front line and are the most likely source of where consumers will have their questions answered on the transition. Small retailers have made the necessary investment in new technology, training, and consumer education to become certified retailers in the converter box coupon program. For this program to be successful, however, these businesses cannot be left with unredeemable government-issued coupons or unsellable converter boxes if federal funds for the converter box program are exhausted.

Congress is monitoring closely the success of these efforts as the public and small businesses have a huge stake in it. Indeed, all Members of Congress want to ensure that the transition set for February 18, 2009 is a smooth one. Representing a District with populations that are among the most likely to be affected by the DTV transition, I think it is critically important that the federal government and private sector stakeholders minimize the number of televisions that go dark in February. It's clear that the DTV transition will not be a successful one without the important contributions of small businesses in a variety of industries.

I look forward to the testimony of our witnesses today, and thank them all for participating and I now recognize my friend from Tennessee, Ranking Member David Davis for his opening statement.

OPENING STATEMENT OF MR. DAVIS

Mr. DAVIS. Good afternoon. Thank you, Mr. Chairman, for holding this hearing on DTV transition and its impact on small firms.

I would like to thank all of the witnesses for taking time out of your busy schedules to come and testify before this Committee and most particularly, Mr. Jack Dempsey has made the trip here from Johnson City, Tennessee. Welcome, Jack.

Since the Deficit Reduction Act became law on February 6, 2006, the days of the analog television signal have been numbered. On February 17, 2009, the nation will undergo a change in the way television broadcasting is transmitted over the air. On that day, all television stations will terminate broadcasting and log signals. Thereafter, only digital signals will be transmitted. Small broadcasters, electronic retailers and other small firms are at the forefront of the DTV transition.

The switch from analog to digital transmission signals will provide television viewers with the clear pictures and more program choices and will free up more portions of airwaves for public safety communications such as police, fire and rescue and new broadband wireless services. All of these are admiral goals, but the DTV transition is not without cost. Since the late 1990s, television broadcasters have spent billions of dollars to build the infrastructure for into air digital signals while continuing to broadcast in analog. While all broadcasters are being asked with—tasked with making this change, small cable companies and broadcasters are feeling the pinch of these expenditures more acutely than their larger counterparts.

Once again, I'd like to thank the witnesses for being with us today and I'm eager to hear your testimony.

Thank you.

Chairman BRALEY. Thank you, Pat.

Witnesses will be allowed five minutes to deliver their prepared statements. The way the lights work is when you have one minute remaining, the yellow light will turn on in a light fixture in front of you and when the time is up, the red light is on. Your written statements will be included in the record in their entirety and at this time it's my pleasure to introduce our first witness, Mr. Greg Hephner is the president and owner of Hephner TV and Electronics, Incorporated. For over 50 years, Hephner TV has been a leading retailer of home entertainment products in Wichita, Kansas. Mr. Hephner is testifying on behalf of the Consumer Electronics Retailers Coalition. CERC is an association of established electronic specialty and general retailers. Welcome. And we look forward to your testimony.

STATEMENT OF MR. GREG HEPHNER, PRESIDENT, HEPHNER TV AND ELECTRONICS, INC., WICHITA, KANSAS

Mr. HEPHNER. Chairman Braley, Ranking Member Davis, thank you for inviting me to appear before your Subcommittee on behalf of Hephner TV and the Consumer Electronics Retailers Coalition.

It is our privilege to offer you our perspective as an independent consumer electronics firm on the progress of the DTV transition in America's heartland.

Transition in the electronics industry is nothing new. Our company was established by my father, Lonnie, in 1950, long before which Wichita had an TV stations. We witnessed the transition

from radio to TV from black and white to color and now from analog TV broadcast to digital TV broadcast.

While technological changes can confuse and frustrate consumers, these same changes eventually enhance consumers' lives and are accepted and enjoyed once they are understood. As probably the smallest member of the Consumer Electronics Retailers Coalition, our management team gets to observe these changes and consumers' reactions to them on a daily basis in our own store. The sheer scope of the DTV broadcast transition is without precedent, leaving some small consumer electronics firms to choose not to participate in the NTIA coupon and education programs. The reasons given are varied, but most of these other dealers have told me that they wanted to avoid the hassle of redeeming coupons providing customer education and dealing with customer complaints.

Our company, however, embraced the transition and our experience has been very positive. Hephner TV was an early participant in NTIA's coupon eligible converter box program. In partnership with CLC Services, part of the IBM Team that NTIA is contracting with, we served as a pilot site to test the coupon redemption system prior to the general public launch. The application process with both NTIA and the Central Contractor Registration are simple and fast for a company of our size. We have redeemed coupons using both the retailer web site and the toll-free phone number with little difficulty.

The CLS Services Retailer Support Center has been responsive to any questions we have had and we have received our coupon reimbursement payments in a timely manner. We have found that customers aren't putting off the purchase of the converter box, thus the demand for the boxes should be consistent over the next 12 months.

In summary, we are very pleased with the coupon redemption processes as created by the Congress, the NTIA, and IBM CLC Services. Our observations are that consumers seem to have a high degree of awareness and interest in the DTV transition. Web sites dedicated to the DTV transition sponsored by the NTIA, the Consumer Electronics Retailers Coalition, the FCC, and countless others have provided a wealth of information to any consumer that has questions.

In Wichita, we have cooperated with our local TV affiliates on news stories that educate consumers about the transition. All of our local TV stations have ubiquitous crawls along the bottom of the screen directing consumers to call or log on to web site for details about the transition. Our local newspaper, The Wichita Eagle, continues to run stories and updates on the coupon program.

It is my belief that if someone is unaware that TV is changing, they simply haven't been paying attention. However, we also understand that awareness doesn't always translate to understanding. Creating consumer understanding of the transition falls to local retailers like us. We are on the front lines of public education, explaining the details of the transition and reassuring the customers that the transition will not be as draconian as some have assumed.

Through this we are successfully using the free handouts provided by the NTIA on their web site. We also use reprints of perti-

nent newspaper articles as handouts and post helpful links on our company web site. We have observed that once we educate customers about the transition in easy to understand terms, they are relieved that they won't have to make any changes if they are on cable or satellite, or that the converter box solution is simpler than they had imagined.

We have fielded substantially fewer complaints than I had anticipated. Very few customers have mentioned any problems with the coupon application process. Most customers have had little trouble connecting their boxes. In fact, many customers have been pleasantly surprised that they are receiving more channels via the digital box than they did with their analog tuners.

From our vantage point, the DTV transition is progressing very smoothly. The coupon redemption procedures designed by the NTIA and IBM/CLC Services are easy to use and transparent for the retailer. We have seen little of the consumer angst that was predicted. Our customers understand the transition and are preparing themselves for the day that most analog broadcast end.

We would encourage the NTIA to continue the programs that are currently in place. The existing systems strike a good balance between the needs of the consumer and the retailer, while offering reasonable security against fraud.

Finally, Mr. Chairman, there is one area in which Members of your Committee could make our lives a bit easier. When we started ordering our boxes, we found that the price had gone up several dollars from the announced price, apparently due to a 5 percent tariff category in which the government seems to have included these converter boxes. Representatives Ron Kind and Kevin Brady have introduced a bill into Congress, Bill No. HR 5635 that would reform this tariff so that the government would not be assessing a special tax that increases the cost to us of the very products that it is subsidizing.

I would hope that your Members would consider becoming cosponsors of this legislation.

At Hephner TV we are excited to be part of one of the largest technical upgrades in the last 60 years. The transition has spurred an unparalleled public interest and enthusiasm in the products we sell and in our industry as a whole.

I appreciate this Committee's interest in us and our concerns and I hope you will remain in touch with us as the transition moves to its conclusion next year.

[The prepared statement of Mr. Hephner may be found in the Appendix on page 28.]

Chairman BRALEY. Thank you, Mr. Hephner, and I certainly will take a good look at HR 5635 and the Committee will also follow up on that. I appreciate that suggestion.

Our next witness is Mr. Ed Pardini who is a Senior Vice President of Operations in the North Central Division at Mediacom Communications in Des Moines, Iowa. As a Mediacom subscriber, I look forward to your testimony.

Mediacom serves several smaller cities and towns throughout Iowa, Minnesota, and North Illinois, South Dakota and Wisconsin. They provide a broad array of broadband products and services, in-

cluding traditional video services, digital television, video on demand, digital video recorders, high definition televisions, high speed Internet access and phone service.

Mr. Pardini is testifying on behalf of the American Cable Association which is a voice of independent cable operators. Welcome.

STATEMENT OF MR. ED PARDINI, SENIOR VICE PRESIDENT OF OPERATIONS, NORTH CENTRAL DIVISION AT MEDIACOM COMMUNICATIONS, DES MOINES, IOWA

Mr. PARDINI. My name is Ed Pardini, and I am Senior Vice President of Operations, North Central Division at Mediacom Communications, an independent cable business. My company, whose division is based in Des Moines, Iowa, provides essential video and broadband products and services to smaller cities and towns in many states represented by this Committee, including Iowa, Wisconsin, Missouri, and several others.

I'm here today on behalf of the American Cable Association. The Association's members range from family-run businesses serving a single community to multiple system operators like Mediacom that provide vital video, broadband, and advanced services that bridge the digital divide in many smaller markets.

Small cable operators are important businesses in their communities, providing not only broadcast and cable programming, but also extending the geographic reach of broadcast programming to consumers and increasing their viewership.

Additionally, many of ACA's members offer exclusive local and community-oriented programming not carried by other operators like Iowa's Mediacom Connections channel.

As we approach next year's digital transition, ACA and its members are fully committed to ensuring its customers have a seamless transition and we're working to ensure others know how to prepare for the transition. ACA is an active member of the DTV Transition Coalition and like many ACA members, Mediacom has undertaken a massive education campaign to prepare consumers for the digital transition that includes public service announcements, information in our monthly billing statements and meetings with community groups.

ACA and its members are committed to ensuring its subscribers can continue to view broadcast stations after the transition. To make that happen, tens of millions of dollars have been invested in purchasing and upgrading the equipment necessary to provide digital signals in a format that is viewable on both digital and traditional analog sets.

Today, even as government broadcasters and cable operators work together to minimize the confusion among consumers associated with the digital transition, their collective efforts may be disrupted by broadcasters who will be negotiating retransmission consent deals with cable operators at roughly the same time. In the second half of 2008, the retransmission consent agreements that enable cable operators to offer local broadcast signals will expire and ACA expects a significant number of its members to face difficult negotiations. In fact, while ACA members may well have good relationships with WJHL, many are worried by the news from its parent company, Media General, and other companies' analyst

calls, and the pressure mounting from Wall Street to extract cash from consumers foretells a potentially very different and ominous experience this fall.

As it stands, federal retransmission consent and network nonduplication rules grant broadcasters unrestrained power in these negotiations and broadcasters commonly leverage their power to demand unreasonable prices, terms and conditions from small and medium-sized operators. Furthermore, they use this power to demand per subscriber fees, 200 to 1100 percent higher for smaller operators than for larger ones for identical content without any rational justification.

These higher costs are then borne by consumers. As a committee focused on the important role that small business plays in the economy and one that cares for consumers, I hope a growing awareness of this problem of discriminatory pricing will prompt further inquiries and action.

As a negotiating tactic, broadcasters often threaten to force small cable operators to drop their signal, as a means of pressuring operators into accepting unfair deals which raise the rates on consumers. This practice, which will under the best of circumstances disrupt service with no regard for consumers, will cause mass confusion in the months before and after the transition. This is precisely what happened in early 2007, when 2 million television viewers in 700,000 households were disrupted by Sinclair Broadcast Group's unilateral decision to pull 22 stations from Mediacom Cable Systems in 12 states, including Waterloo and Dubuque in the Chairman's District, and other states represented on this Subcommittee.

In September 2007, the FCC issued a rulemaking seeking comment on revisions to the Commission's program access and retransmission consent rules. The ACA filed comments in this proceeding describing the broadcasters' discriminatory conduct towards small cable operators and proposing and prohibiting these tactics.

More recently, Mediacom and several other cable operators filed a petition with the FCC, asking the Commission to promptly adopt a retransmission consent ″quiet period″ to ensure that these disputes in the months surrounding the digital transition do not trigger consumer confusion or service disruptions. To put an end to the discriminatory retransmission consent practices that harm consumers and to ensure uninterrupted service for ACA's members' subscribers during this transition, we encourage this Committee to conduct a further review of these issues.We also urge every Member of Congress to play an active role in monitoring negotiations in their own districts.

Chairman Braley, Ranking Member Davis and Members of the Subcommittee, thank you again for your opportunity to testify.

[The prepared statement of Mr. Pardini may be found in the Appendix on page 32.]

Chairman BRALEY. Thank you.

Our next witness is Keith Oliver, who is the Senior Vice President of Corporate Operations for Home Telephone Company in Moncks Corner, South Carolina. Home Telephone also provides

voice services, broadband and video services to the homes and small business in their community.

Mr. Oliver also serves as chairman of OPATSCO, the Organization for the Promotion and Advancement of Small Telecommunications Companies. OPATSCO is a national trade association made up of more than 600 small, local telecommunications carriers serving rural areas.

Welcome.

STATEMENT OF MR. KEITH OLIVER, SENIOR VICE PRESIDENT OF CORPORATE OPERATIONS FOR HOME TELEPHONE COMPANY, MONCKS CORNER, SOUTH CAROLINA

Mr. OLIVER. Good afternoon, Mr. Chairman, Ranking Member Davis, and Members of the Committee.

I appreciate the opportunity to testify before you today. My name is Keith Oliver and I am Senior Vice President of Corporate Operations for Home Telephone Company which is a small business located on Moncks Corner, South Carolina.

We provide voice, broadband, and video service to the small businesses and homes in the communities in which we serve. But I'm also here today in my role as chairman of OPATSCO, the Organization for the Promotion and Advancement of Small Telecommunications Companies. OPATSCO is a national trade organization made up of more than 600 small phone companies that provide modern communication services to customers in the rural areas of 47 states. These areas are often too sparsely populated to attract the major national providers.

You may remember that OPATSCO was part of the High-Tech DTV Coalition which encouraged Congress' decision to institute a hard date in the DTV transition. We supported this effort because the 700 megahertz spectrum involved in this transition was ideally suited to delivering broadband services to small communities.

OPATSCO had hoped that the auction of the 700 megahertz spectrum would facilitate this goal. For our members, the DTV transition has always been about deploying more broadband in the rural areas in America.

Unfortunately, Federal Communications Commission decided to auction the spectrum off in large geographic licensing areas which most small carriers could not afford. When measured in terms of population coverage and spectrum blocks in the 700 MHz auction, the rural telecom group found that the small companies obtained less than 1.5 percent of the coverage. This result is not in accordance with the intent of Congress. Congress knew that large carriers do not have incentives to serve sparsely populated areas. Therefore, in Section 309(j) of the Communication Act, Congress directed the FCC to ensure that small entities specifically including rural carriers had a reasonable chance of obtaining spectrum.We have repeatedly asked the FCC to adhere to this goal by returning to smaller geographic licensing areas. The 700- MHz auction represents a lost opportunity.

I'd now like to turn my intention to the customer notification requirements of the DTV transition. Small carriers understand the need to help inform the public about the DTV transition and we're happy to do our part. The FCC has required small carriers to notify

certain customers about the DTV transition by including information in their telephone bills. But it has barely acknowledged that there are any costs associated with this requirement. And the FCC is now considering expanding this requirement to all consumers of telecommunications services.

But how will small companies recover costs such as printing and extra postage? In my own company's case such cost alone will exceed $23,000. That's a lot of money for a small company. But in addition to the hard costs, we must also consider the staff training and the manpower costs. When we include new information on phone bills, customers understandably call the carrier who sent them the information. We have to take extra time to train our customer service representatives on this issue and the small carriers, we have limited staffs. This is one reason that we're very encouraged by the introduction in the Senate, S.2902, the Independent Office Advocacy in Small Business Regulatory Reform Act. This bill will enhance efforts to consider the impacts of new rules on small businesses.

We hope that the House Small Business Committee will give similar legislation serious consideration.

Finally, I'd like to mention several areas where it appears the FCC is moving in the right direction. The Commission has found that when video and broadband services are provide together, more customers buy broadband. The FCC has also found instances of large programmers discriminating against their small competitors which hurts both broadband deployment and video competition. The FCC is to be commended for its on-going proceedings that are considering helpful reform to program access rules. Currently, force tying of unwanted programming content and outmoded retransmission consent results in higher prices for our consumers and the terrestrial loophole in programming access rules allows large programmers to restrict access to some content.

We're hopeful that the Committee will encourage the Commission to implement reform in all of these areas. Let me emphasize, however, OPATSCO does not favor intrusion regulation of the video content market. We only seek updates to existing rules in order to recognize new technologies and competition.

In conclusion, let me stress again the need for the government to consider the impact on small broadband providers when it imposes new regulation. Smaller licensing areas and wireless auctions can market opening reform to program access rules and help expand broadband deployment.

Thank you for your attention and I look forward to your questions.

[The prepared statement of Mr. Oliver may be found in the Appendix on page 38.]

Chairman BRALEY. Thank you, Mr. Oliver.

Our next witness will be introduced by the Ranking Member.

Mr. DAVIS. Thank you Mr. Chairman. It is a pleasure to introduce our next witness from my District back in Tennessee. Mr. Jack Dempsey started his professional career with WAXU AM-FM Radio in Georgetown, Kentucky. He then went on to work as account executive for WKWT-TV in Lexington, Kentucky and

WOWK-TV in Huntington, West Virginia before moving to the Tri-Cities area of Tennessee in 1985.

In August of 1985, Mr. Dempsey jointed WJHL-TV as a general sales manager. He became president and general manager of WJHL-TV in May of 1989. Mr. Dempsey is actively involved in numerous organizations in the Tri-Cities such as the Rotary Club of Johnson City, Barter Theater Board of Directors, United Way of Greater Kingsport, Board of Directors, United—the Johnson City and Bristol Chamber of Commerce.

Mr. Dempsey, welcome. We look forward to your testimony.

STATEMENT OF MR. JACK DEMPSEY, PRESIDENT AND GENERAL MANAGER OF WJHL-TV, JOHNSON CITY, TENNESSEE

Mr. DEMPSEY.Good afternoon, Chairman Braley, Ranking Member Davis and Members of the Subcommittee. Thank you for inviting me to testify on what is my station's number one priority, a successful digital television transition.

My name is Jack Dempsey and I'm the general manager of Media General's WJHL-TV in Johnson City, Tennessee. I'm located in a smaller market, the 91st rated market out of 210 markets in the country. I'm happy to be here to offer my perspective on the role of small broadcasters in the upcoming digital television conversation.

Broadcasters are fully committed to ensuring that no viewer loses access to free television after the transition, but I want you to be aware that broadcasters, particularly small broadcasters are making this transition at a significant cost. To give you some scope of the investment, broadcasters nationwide have spent in excess of $5 billion upgrading equipment to migrate to an all-digital world in 2009.

My station alone has spent over $6 million to make the DTV transition a reality. What many people don't realize is that DTV transition costs are the same in a small market as in a large market. The equipment costs are the same whether you're in Johnson City or New York City. Unfortunately, the DTV transition has produced virtually no increase in our revenues that can be used to offset the significant costs broadcasters have had to incur.

Take my station, for example. In first constructing WJHL's transitional DTV facility, we had to buy and install a new antenna on the side of our tower keeping our analog antenna on the top. In addition to a new antenna, we had to install a new DTV transmitter, a new filter and new transmission lines. We completed construction of our initial DTV facility in early 2002. Since 2005, we've been broadcasting in full power in both analog and digital which entails running two facilities with two electric bills.

Almost a third of the $6 million we are spending will go toward transitional equipment that we will no longer use after February 17, 2009. Unfortunately, this equipment has no resale value and as a result about $2 million of our DTV transition expenses cannot be recouped.

In addition to the cost of transitioning WJHL's technical facilities to DTV, we have undertaken extensive efforts to educate the public about the transition. In fact, most full power commercial stations are participating in the National Association of Broadcasters' Pub-

lic/Private Partnership, adopted by the Federal Communications Commission on March 3rd. Those broadcasters, like WJHL, that have opted into the partnership have agreed to air public service announcements, crawls, snipes, news tickers, a 100-day countdown clock and a 30-minute DTV informational television program in English and Spanish.

All tolled, the value of this national, multi-platform, multi-faceted campaign is estimated at more than $1 billion and will generate 132 billion audience impressions, meaning the country will view these images 132 billion times. All said, every viewer will see this message approximately 642 times.

Certainly, broadcasters are excited about the possibility that digital broadcasting brings, but there continue to be challenges that we face. First, in the current must-carry retransmission consent cycle, we have not received any fees from cable systems carrying our signals, be it analog or digital. Broadcasters provide the most watched content on television and I believe we should be fairly compensated by cable companies for that content.

Secondly, a digital world allows broadcasters to offer additional streams for multi-cast channels so we can provide more local programming. We offer a 24-hour local weather channel, but we have very limited cable carriage for this multi-cast channel and it affects our ability to obtain any new advertising revenue from the channel. Although we have arranged for its carriage on the two largest cable systems serving our market, they carry the channel only on their digital tier, which reaches only 35 to 40 percent of the cable homes in the market.

Finally, as much as we would like to sell more advertising on our multi-cast weather channel, we are hampered by the lack of ratings information for that channel. In addition, there's no commercially available ratings information measuring the viewership of our primary DTV channel separate and apart from our analog channel. Without ratings data, we are stymied with coming up with other ways to gain more advertising revenue from our DTV investment. This is a historic moment in broadcasting and we, as local television broadcasters remain fully committed to the DTV transition.

I believe that through our efforts and sacrifices, the public will be well prepared on February 17, 2009. I thank you for the opportunity to testify, and I look forward to answering any questions you may have.

[The prepared statement of Mr. Dempsey may be found in the Appendix on page 44.]

Chairman BRALEY. Thank you, Mr. Dempsey.

Mr. Hephner, let me start with you. I grew up in a small town of 1500 people. I remember going down to Foster's TV back when there were very few models available and it was a big, big deal in a family to purchase a black and white television set, back when looking a test pattern was considered excitement on a late night.

One of the things that we know is that your business has changed dramatically because of the impact of big box retailers and competition for the products that you sell.

In your testimony, you indicated that the NTIA rules governing the government's converter-box program helped to facilitate the participation of small electronic retailers.

Can you share with us some of the observations you had about the specific rules that NTIA did or did not impose that allowed this voluntary program to assist small retailers like yourself.

Mr. HEPHNER. Sure. One of the major considerations was the fact that we wouldn't have to spend a ton of money coming up with some kind of, or buying or having to rewrite a computer system. The NITA/IBM CLC services system allows us to go on to a standard Internet connection, redeem the cards, track the payments, see how many coupons have been requested for our zip code. All of that is very simple and easy for us to access through normal, off-the-shelf Internet capable computers which we have in the store.

The other thing that we really liked was that there were essentially five major rules, none of them were very stringent as far as—they were common sense rules. You have to provide backup material in case somebody wants to audit. That's reasonable.

And yet, there wasn't any rule that seemed to be—put us in a position where if we made an honest error in accounting or something of that nature, we were going to be hit with some large fine. The system was simple, fair, easy for us to understand and implement.

Chairman BRALEY. Thank you.

Mr. Dempsey, one of the things that we all have had experience with is having day-to-day impact by what comes out of our local broadcasters. Many of us depend on them for the news that we watch and inform us about what's going on in our communities. And I imagine, given the length of time you've spent in the Johnson City area, you've had a good opportunity to observe how your market depends on the station to provide them with news and information.

Your testimony highlights many of the benefits that people should see as a result of the DTV transition. Do you have any concerns that people like the citizens I represent in the rural parts of my District in Iowa may not receive the full benefits of this transition?

Mr. DEMPSEY. Yes. Mr. Chairman, we have concerns really about three groups. And this is really where we focus our efforts: elderly folks, people with lower incomes, and then people in very remote areas that don't have access to other forms of delivery.

I think thus far we've done a really good job of letting the public know what's coming. When we first started this I spoke in February to a group in Bristol, the Bristol Rotary Club. And I asked them the question have you heard about the date February 17, 2009? One person in that group raised their hand. These were business people, people "in the know."

The last group I spoke to was the Kingsport Kiwanis Club and I asked that same question. And every hand in the room went up. So I think we have at least made people aware that a major change is coming.

The next step that we're concerned about is how this is actually going to take place because it's tricky. A lot of folks cannot connect these devices to their television. They simply don't know how to do

it. There are going to be some antenna issues that I think need to be addressed for people to pick these signals up. And those would be the two groups that we would be most concerned with at this time.

Chairman BRALEY. Thank you.

Mr. Pardini, you happen to mention the city of Dubuque which is where my wife was born and where I spent a good deal of my time back in the first District of Iowa. And in my former life, I had the opportunity to represent a UHF-ABC affiliate named KDUB, back in a time when the whole issue of must-carry rules and the impact they were having on different types of markets in the cable that were being served by the cable industry were being impacted.

In terms of Mediacom's experience, what I'd like you to do is share with us your perspective on the impact that Iowa subscribers and other subscribers around the country should expect to receive on February 18th, for example, after this DTV transition will all of the Iowa subscribers that you serve be able to view all of the channels that they can today?

Mr. PARDINI. Absolutely, all of our cable subscribers will continue to receive all of the traditional off-air signals that they currently receive. So on February 19th, the sun will rise, the birds will sing and the Today Show will be on. Mediacom cable subscribers will not need to buy additional equipment in order to receive those signals.

We're very thankful that the chairman of the FCC, Chairman Martin, has announced a waiver for small cable operators with less than 552 MHz of capacity from dual carriage requirements under must-carry. This will allow them to continue to carry these signals and minimize the investment of very scarce resources so that small cable operators can continue to provide these valuable local services to their customer base.

Chairman BRALEY. One of the reasons I mentioned Dubuque is because I was surprised to learn that Dubuque was one of the pioneers in the cable TV industry in this country because of the geography and the topography and the bluffs around Dubuque located on the Mississippi River.

Mr. PARDINI. Well, the terrain of Dubuque is a challenging terrain to receive an off-air signal and that's one of the benefits that cable operators provide the broadcast community. And in exchange for the valuable entertainment services that the broadcast community provides, cable operators extend the range of their signals to places where off-air signals wouldn't normally go. They generally improve the picture quality over that terrain so that you have a very watchable snow-free picture, and thereby increase the viewership and the eyeballs that are enjoying the program offerings that are being put forth by the broadcast community.

So I think that it's very much a win-win situation until you get into the area of retransmission consent where government regulation has created an extraordinary and unusual market that allows broadcasters, some broadcasters to use an unhealthy degree of leverage to extract fees from consumers that they wouldn't normally receive in the course of their business policy.

Mr. DEMPSEY. May I address that, Mr. Chairman?

Chairman BRALEY. You may.

Mr. DEMPSEY. I can't speak, of course, to Mr. Pardini's experience, but in my market we receive no retransmission consent fees from any cable operator. In our market, probably 80 percent of the homes who receive cable are subscribers to either Charter or Comcast, so we've never really had any position to go to them with demands for compensation. I want to echo Mr. Pardini's comments that we think that we've helped each other. We certainly recognize the value that the cable systems bring us and we know from our own ratings information that we bring a great deal of value to them because the broadcast over-the-air stations are viewed significantly more than the cable sources on their own cable systems.

So while we look at this as basically a market matter, I want to point out that we have never in the history of our station threatened anyone to remove our signal except one time back in 1993 because they wouldn't sign the agreement. It had no money attached to it. We just couldn't get the agreement.

Chairman BRALEY. Thank you.

Mr. Oliver, I want to talk to you a little bit about something we hear about called triple play.

More and more of the telecommunications companies are offering their customers a triple play of voice, Internet and video services and we heard Mr. Pardini talk about some of the services that his company provides.

How do you expect the DTV transition may affect consumer demand for video services provided by telecommunications companies?

Mr. OLIVER. That's an interesting question and it's somewhat difficult probably for us to tell in many respects. I would not think that it would have significant impact because of again we're talking about the consumers receiving their TV signal off-the-air as being ones that are impacted.

Our company, for instance, does provide video. We've got roughly 6800 video subscribers that we currently serve. And I wouldn't necessarily expect that it's going to be tremendously increased as a result of the DTV transition.

I don't think it's going to have tremendous impact but as you say, the triple play has been a tremendous success for us as rural carriers in our ability to deliver the broadband signal out to our customers. There's been a number of studies and the FCC has even concluded that the provision of video signal along with broadband tremendously increases that penetration rate and that's what we strive to do in rural areas is to ensure that the facilities that we're putting out there which are high cost to start with have as much subscribership as possible. So our interest in this is again from that broadband deployment side and being in a position to continue to link that video with that broadband service.

Chairman BRALEY. Thank you. At this time I yield to the Ranking Member.

Mr. DAVIS. Thank you, Mr. Chairman, and again I'd like to thank the panel. You did a wonderful job, thank you.

I'd like to start with Mr. Oliver, if I may. You briefly mentioned problems with technological issues related to the equipment in your testimony. Would you like to go into a little more detail so we could understand some of those technological issues?

Mr. OLIVER. I am not certain exactly what you're referring to in my testimony to tell you the truth.

Mr. DAVIS. If you could, the equipment that you're using, the transition, do you feel like the equipment is working well?

Mr. OLIVER. Again, most of my testimony related more to the telephone side. We do have video proponents out there as well that we're serving. And yes, sir. I think that we are finding not major problems at this point, and at this point in time we would see a relatively smooth transition from our standpoint as a cable service provider.

Mr. DAVIS. Okay, thank you for that.

Mr. Dempsey, thank you for being here. It's good to have you in Washington. You mentioned $6 million it's cost your station so far. Is that pretty typical standard for most small stations?

Mr. DEMPSEY. Oh, yes. Again, you may refer to my testimony, whether you're in Johnson City or New York City, the cost to make this transition are basically the same. So it's very burdensome and we're the 91st market so we're kind of midway in the country. You get into the markets that are 150 and on up, it's even more difficult because they have less of a revenue stream.

Mr. DAVIS. How do you hope to absorb that cost, that $6 million that you've had to outlay? How do you plan on bringing that money back into your business?

Mr. DEMPSEY. Well, one of the ways that we hope to is the fact that we're able now to provide other streams of programming. For example, WJHL-TV has a second channel. It's a 24-hour local weather and we hope once we get access to all of the homes in the market via cable or satellite, we think that that service will be in need, that it will get ratings and we'll be able to sell the advertising on that.And maybe a third channel and a fourth channel.

Mr. DAVIS. The $6 million that you've paid to date, do you foresee still the on-going increases and expanse until you make the transition in February?

Mr. DEMPSEY. Yes, sir.

Mr. DAVIS. Do you have any idea how much that costs?

Mr. DEMPSEY. It would probably be another million and a half. Because when you make this transition, for example, when you go to the full digital signal, for example, you're going to have to have basically new equipment because when we broadcast in high definition, you basically have to reconfigure your set to fill that 16 by 9 ratio screen versus what we've had. So that's just one example. That alone will probably be $150,000 to $200,000.

Mr. DAVIS. One thing I have noticed when I'm back home, you are running are PSAs and you actually started those before federal mandates kicked in to make you do those things.

Can you tell me how that's working and the feedback you're getting on your PSAs?

Mr. DEMPSEY. I think it's working very well. This is so important to us because we don't want to lose one set of eyes. We don't want to lose one household to this transition because they're all important to us.

We've undertaken in the last few months this education program that I think is working. We noticed from the calls we get at our station in addition to what we run that's broadcast, we also have

basically a grass roots approach where in my case I go and speak to civic groups or say the First Tennessee Development Council on Aging which was one of the best, by the way, I ever visited, because it really did help folks understand what they were going to have to do.

So I think we have the public. They now know that a huge change is coming and I think we've been very successful in doing that.

Mr. DAVIS. Thank you. Mr. Hephner, in your testimony you mentioned that many retailers are hesitant to participant in the coupon program. What concerns do they have that are preventing them from participating?

Mr. HEPHNER. Well, from the feedback from the dealers around me, they first of all thought the coupon program was going to be very difficult. They looked it up on the web site and they saw these four or five pages of participation rules. I think they just felt overwhelmed by it, thought they were going to have to do more than they have to do.

I understand that there were a lot more odious prior to CERC getting involved, that there was a lot more regulations, but it got streamlined down. When we started, it seemed fairly simple. I mean once you read it through you realize it's really not as bad as it seems. Plus they feel like it's going to be a hassle to redeem the coupons and deal with the customers. They would just rather say go buy your box at Wal-Mart.

For us, that wasn't an option. We have positioned ourselves over the last 58 years to be the expert in our market area for TV. We're going to get those calls anyway, so we have to have a solution period.

Mr. DAVIS. So do you think those concerns have been valid?

Mr. HEPHNER. No, I don't at all.

Mr. DAVIS. The Government Accountability Office recently released a report regarding the progress of DTV transition. In this report, the GAO found that many small retailers had to make costly changes to their point-of-sale process to accommodate the government-issued coupons. Did you need to make any changes to your point-of-sale process?

Mr. HEPHNER. The only change we made was to add a link on our computer screen that said redeem coupon that took us to the NTIA's web site.

Mr. DAVIS. Very good. I started my question—this will be last question to Mr. Oliver and I'm going to go back and ask that same question to everyone on the panel if anyone would like to answer, talking about any problems or technological issues related to the equipment. Have any of you seen that happening and if you could, if you could respond to the question?

Mr. PARDINI. Sure, I'll talk to the point which will hopefully in the next few weeks become moot. For example, with Mediacom, there are some 45 signal processing centers in small communities that service less than 100 customers. To upgrade these centers with the necessary equipment would average approximately $15,000 per location. So in essence, what we're looking at was an investment on the order of $650,000 to service 4500 customers. That means an investment of roughly $1,000 per customer. There's

very few businesses in this country that can survive when a resource demand is placed on them to put $1,000 down on your house. And this is on top of an already highly-pressured great structure. So we looked at this, and many small cable operators looked at this as being a potential deal breaker in their business model and in their ability to conduct businesses after that, after the February 17th transition date.

The FCC, as I mentioned, recently indicated that it was going to adopt an order that would provide a waiver of the dual-carriage requirements that would require such a huge financial outlay for small cable operators and that's why we applaud the FCC's actions. We hope that they will adopt the order in the next coming, few coming weeks and prevent small cable operators from having to go through such an excessive investment for very little return.

Mr. DAVIS. Would anyone else like to answer that question?

Mr. DEMPSEY. I would just like to say that we tested getting coupons. We purchased converter boxes. The last display when I spoke to the group on aging was in the Millennium Center and I took a 10-inch monitor over there and rabbit ears and it picked up the signal. So I think they're going to be, by and large, they work great. There will be some areas, particularly in our region with mountains that will be some challenges, but thus far, the coupons, we've had various people say you know, we ordered them up, they came right in and we've had basically all positive comments.

Mr. DAVIS. Thank you. I yield back.

Chairman BRALEY. The chair recognizes the gentleman from Texas for five minutes.

Mr. CUELLAR. I appreciate what you're all doing and I do understand the difficulty when we have a major transition. The general question I will ask you has to do a little bit more with some of the TV stations that deal with the Spanish-speaking individuals which I think provides extra challenges from the ones that you all are talking about. And I understand what you all are going through.

What do you do with the—what's the impact of the DTV transition stations that do not have the must-carry rides like several of the Univision stations? Does anybody have an idea?

Mr. PARDINI. Well, I can tell you in Iowa we carry two off-air Hispanic language stations. We also offer a tier of Hispanic language services in our service area on our digital tier that enable Hispanic households which represent the largest-growing population segment in Iowa to receive services. So we do carry all full-power Hispanic language stations in our service areas.

Mr. CUELLAR. What about the—have you all voiced as an industry the cable plan to move Class A and lower power broadcast stations whose transmission agreement have expired off their analog cable tier?

Mr. PARDINI. I think that that's on a market-by-market basis dependent upon the station. I do think that low power, Class A stations under the regulations do not have a mandatory right of carriage on cable systems. I think that for cable operators that are sensitive to local market conditions, they'll continue to carry and make that service available, simply as a matter of business survival.

Mr. CUELLAR. And I appreciate that, whether it's in your state or certainly in Texas. The Hispanic population is just growing by large amounts and Texas I think it's almost like 36 percent is already Hispanic. Texas, as a whole, to the last census has grown, is now—I don't know if this is a right term, minority majority state, mainly with Hispanics and if you look at different states you see this growth. I know on the border we have a different type of situation because as we move to transition right across the river, the Mexicans are not doing that. So they're staying on that, so that means some sort of impact, economic impact to our TV stations on the U.S. side. I know that that's a different subject, Mr. Chairman, but whatever you all can do to help some of those minority businesses and keep that in consideration we would appreciate it.

Thank you.

Chairman BRALEY. Thank you. We'll continue on with a second round of questioning and we're watching to see what happens with more votes, but as long as we're on a roll, we'll just keep going. This is a very, very timely topic and I think that it's been very informative, so I'm going to continue to explore some of these issues and hopefully, we'll be able to shed some light on some additional things.

Mr. Hephner, one of the things you've talked about was the intimidation factor of these four to five pages of participation rules, do you remember that?

Mr. HEPHNER. Yes.

Chairman BRALEY. I'm hopeful that my Plain Language in Government Communications Act which has passed the House recently by an overwhelming bipartisan majority, will have a positive impact on reducing the length and the intimidation portion of those participation rules.

One of the things we are all concerned about is reducing the imposition on small businesses by regulatory communications from our federal agencies. So one of the other concerns I had is this whole issue of the profit margins and the impact that these requirements have on the sale of the digital analog converter box. If electronic retailers do not stand to make a profit on the sale of those devices, do you believe that there are currently adequate incentives for those retailers to participate in the program and if so, what are they?

Mr. HEPHNER. In our case, being a small business, we don't just look at the bottom line, we look at the long term. We've been in business for 58 years. Customers come to us for answers. If we don't have the answers, they'll go someplace else. So we have to have the answers. We did not think about not participating in the program just because we knew we were going to have to. So ours is more of a customer service incentive versus a profit incentive because there is no profit incentive when you make $10 on a sale that's going to take you a lot more time than most sales.Our margins are very, very slim.

As for that tariff issue, every couple bucks we can take off the cost side helps us. But for us, it was being there for customer service. The customer is going to call us with these questions and they're going to expect us to know and that's our incentive, customer service.

Chairman BRALEY. One of the things we know about your business is that it changes with the change in consumer products and consumer demand. And obviously one of the side impacts of this decision is probably going to have a negative impact on companies that manufacture TV antennas or if you look at it another way depending on some of the waivers that are being allowed by the FCC, it could increase market demand. So as you look at your particular business industry, what do you see as some of the challenges ahead that could be directly or indirectly related to this change?

Mr. HEPHNER. Speaking specifically to the antenna issue, we have seen an increase in antenna sales just because customers generally need a little bit better antenna to pull in the digital signals. They tend to have what I've heard the ″cliff″ effect. They go along great, but then once they drop below a certain signal strength, they just drop off and they're gone. So if a customer is used to using an old antenna where they got a snowy picture, now they can't use that same antenna. They're going to need something better. So I think in the short term, things like antennas, we're seeing an increase; cable wires, antenna masts to attach them to, all those things are going to be increased. But there obviously is going to be a bubble effect. Once they put the antenna in, that's not going to continue on down the road.

And obviously, the life expectancy of this product is fairly short term. As people's analog TVs die, they're going to be replaced with these new digital televisions which have those tuners already. So this whole concept of the box and all that is fairly narrow, in our time frame anyway, it is a fairly narrow situation we're going to be in. In a couple of years, it probably will not be a big issue for us.

Chairman BRALEY. Mr. Oliver, I understand that many cable companies are seeking an exemption from the FCC regs issued on September 11 of 2007 and the concern that the ACA and these small operators have is that the dual-carriage requirements would overwhelm the limited band width for many small cable companies.

Do small telecommunications companies have similar concerns about the FCC's dual-carriage requirements and how they impact small cable companies?

Mr. OLIVER. Mr. Chairman, I am not a technological expert, but I can say that in most cases that really doesn't have a major impact on us as telephone providers because in most cases that's being provided over either a provider to the home which is digital or over our DSL product which is again a strong tie back to broadband which is already a digital signal as well.

So on the telephone side, we do find ourselves in a little bit of a different situation than typical cable companies.

Chairman BRALEY. Mr. Pardini, you talked a little bit about the upcoming FCC application for a waiver of the must-carry rules, the dual-carriage requirements and one of questions I have for you is assuming a possible scenario that would not include full relief from that request, what, if anything, is the ACA and small cable companies doing in order to plan for how they would proceed?

Mr. PARDINI. I think without the waiver, you're likely to see that a number of signal processing centers will be shut down which means that cable customers in that part of the country will have

to switch to satellite, or find some other way to do that because you simply can't afford to invest in the equipment necessary to deliver all of these duplicative programming outlets.

So I think that there are going to be some companies that simply look to refer their customers to satellite at that point which means that there's going to be a local business in a small town that is shutting down and losing jobs and those jobs are going out of state and potentially with some competitors going out of the country.

So I think that it's very important that the FCC understand the impact that this will have on main street America, especially in these small communities. Within Mediacom, where you certainly have some degree of size and scope, we're not the big boys like Comcast and Time Warner, but where you have some size and scope you might be able to justify the break even on the equipment, but there would be a disruption in services as operators, either trade service areas in order to get those economies of scale or look to exit the business. And I think that what we all agree here, my fellow panelists, is that we're trying desperately to provide a minimum of disruption to the consumer. This digital transition should be transparent when it's done extremely well. And I think much of this partnership has done that.

There are a few bumps in the road. There are some threats to what is now a very smooth transition process that could loom ahead unless oversight is exercised by you folks on the Committee.

Chairman BRALEY. Thank you. Mr. Davis, any further comments or questions for the record?

Mr. DAVIS. Just a follow-up of what you just said. There's some threats looming, have you outlined those in the hearing today?

Mr. PARDINI. Yes, I have. The one threat which we believe will become a moot point in the next couple of weeks is this FCC waiver for small cable operators at 552 MHz or less. The other one is the upcoming retransmission consent cycle in which some broadcasters may be seeking to use excessive leverage to extract fees from consumers and withhold programming and that may be a point of confusion as to whether it's a retransmission issue or whether it's part of the digital transition and we want to be very clear about that. We think there are some things by adopting a ″quiet period″ in the months before and after this transition where negotiations can continue without necessarily withholding programming. We believe that that's a very sincere step that would allow market conditions to dictate an outcome for these agreements to take place that reflect the value that cable and broadcasters provide each other without necessarily disrupting consumers.

Mr. DAVIS. It appears we put a panel together that can work together as we move towards the February time line for that. Thank you for being here today. I have no further questions. I yield back.

Chairman BRALEY. Well, I would like to thank all of our panelists. It's been a very enlightening, informative discussion. I think one of the things that this hearing has highlighted is what an enormous impact on this country this DTV transition is going to have despite the incredible volume of public service announcements and crawlers and other forms of communication. Mr. Dempsey, I think your personal description of some of the conversations you've had with people in your ADI are probably representative of what other

consumers around the country are facing in terms of their lack of awareness of this problem is rapidly approaching. I think some of the stops and starts and when the DTV requirements are actually going to be implemented has probably led to some of that confusion, but I think this hearing has helped focus the attention on the importance of everyone to do what we can to get the word out and help make this transition as seamless as possible.

I would also like to make sure that we have unanimous consent that Members will have five days to submit statements and supporting materials for the record. Without objection, so ordered. This hearing is now adjourned.

[Whereupon, at 4:16 p.m., the Subcommittee was adjourned.]

BRUCE L. BRALEY, IOWA
CHAIRMAN

DAVID DAVIS, TENNESSEE
RANKING MINORITY MEMBER

Congress of the United States
U.S. House of Representatives
Committee on Small Business
Subcommittee on Contracting and Technology
2361 Rayburn House Office Building
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STATEMENT
of the
Honorable Bruce Braley, Chairman
Subcommittee on Contracting and Technology
House Committee on Small Business

Hearing on "The DTV Transition and Small Business:
Small Firms Contributing to a Big Change"
May 7, 2008

This afternoon, the Subcommittee will consider the impact of the digital television (DTV) transition on small firms. Throughout our country, small companies are making significant efforts to ensure that American households are prepared for the changes that will occur in February, 2009.

Small broadcasters, electronics retailers, and cable and telecommunications companies all are playing a critical role in the DTV transition. This hearing will examine these efforts. It will also consider whether there are additional actions that Congress should take in order to minimize the burden of the transition on small firms, particularly those serving rural areas.

On February 18, 2009, television broadcasters will no longer transmit over-the-air television broadcasts in analog format. As a result, millions of households with analog-only televisions are faced with the prospect of no longer receiving a signal unless they act. They will need to either buy a new TV or subscribe to a new video service, or these Americans must purchase a digital-to-analog converter box.

This transition requires a public-private partnership. The government has enlisted the assistance of businesses, both large and small, to carry out many of these changes. Broadcasters, retailers, electronics manufacturers and video service companies are providing consumer education on the transition. Federal guidelines have also been established for equipment manufacturers and retailers participating in the converter box program.

It is critical that the efforts of small firms are recognized and that the Federal government's policies are not unduly burdensome on small firms. This is particularly important in rural areas, where the broadcasters, cable companies and primary retail outlets responsible for these efforts are small businesses.

At today's hearing we will hear testimony from a number of small businesses in the affected industries. I expect that this hearing will help the Subcommittee and Congress consider more fully the impact of the DTV transition on smaller firms.

One of the issues with the transition is whether the FCC is accounting for the concerns of small broadcasters and cable companies. Both broadcasters and cable companies are actively promoting the transition—having spent millions to educate the public, and having invested in the necessary infrastructure to carry out the transition. The Subcommittee is interested in whether the regulations issued by the FCC have taken into account the limited resources of many small broadcasters and cable companies. It may be that a greater public investment is necessary.

These changes also must account for the unique needs of small companies. I know there is concern about the "must carry" requirements. Resolving this issue requires balancing the resource constraints of small cable companies with consumer's legitimate interest in receiving the full benefits of digital television. It is critical that these cable companies remain viable while addressing the concerns of TV viewers.

The role of small retailers must be acknowledged in this transition, as well. The committee looks forward to testimony on how retailers are handling the converter box program. These retailers are on the front line and are the most likely source of where consumers will have their questions answered on the transition.

Small retailers have made the necessary investments in new technology, training and consumer education to become certified retailers in the converter box coupon program. For this program to be successful, however, these businesses cannot be left with un-redeemable government-issued coupons or un-sellable converter boxes if Federal funds for the converter box program are exhausted.

Congress is monitoring closely the success of these efforts, as the public and small businesses have a huge stake in it. Indeed, all Members of Congress want to ensure that the transition set for February 18, 2009 is a smooth one. Representing a district with populations that are among the most likely to be affected by the DTV transition, I think it is critically important that the Federal government and private sector stakeholders minimize the number of televisions that "go dark" next February.

It is clear that the DTV transition will not be a successful one without the important contributions of small businesses in a variety of industries.

U.S. House of Representatives
SMALL BUSINESS COMMITTEE
Subcommittee on Contracting and Technology

Wednesday,
May 7, 2008

Opening Statement of Ranking Member David Davis

The DTV Transition and Small Businesses: Small Firms Contributing to a Big Change

Good afternoon. Thank you, Mr. Chairman, for holding this hearing on the DTV transition and the impact on small firms. I would like to thank all of the witnesses for taking time out of your busy schedules to come to testify before this committee, and most particularly Mr. Jack Dempsey, who has made the trip up from Johnson City, TN.

Since the Deficit Reduction Act became law on February 6. 2006, the days of the analog television signal have been numbered. On February 17, 2009, the nation will undergo a change in the way television broadcasting is transmitted over-the-air. On that date, all television stations will terminate broadcasting analog signals. Thereafter, only digital signals will be transmitted. Small broadcasters, electronic retailers and other small firms are at the forefront of the DTV transition.

The switch from analog to digital transmission signals will provide television viewers with clearer pictures and more program choices, and will free up major portions of the airwaves for public safety communications, such as police, fire and rescue, and for new broadband wireless services. All of these are admirable goals, but the DTV transition is not without cost. Since the late 1990s, television broadcasters have spent billions of dollars to build the infrastructure for, and to air, digital signals, while continuing to broadcast in analog. While all broadcasters are being tasked with making this change, small cable companies and broadcasters are feeling the pinch of these expenditures more acutely than their larger counterparts.

Once again I would like to thank the witnesses for being here today, and I am eager to hear your testimony. Thank you.

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CONGRESSWOMAN YVETTE D. CLARKE

Statement and Questions Before the House Committee on Small Business, Subcommittee on Contracting and Technology hearing on "The DTV Transition and Small Businesses: Small Firms Contributing to a Big Change."

May 7, 2008

Thank you Chairman Braley for holding a hearing on such a critical issue.

- Today, this committee will examine one of the biggest broadcasting transitions since going to color television.
- Analog broadcast television signals, which have been broadcast for over 60 years, will cease, and full-power television stations will broadcast exclusively digital signals over channels 2 through 51.
- I am particularly concerned about low-income, elderly, disabled, non-English speaking, and minority populations and how this will impact these susceptible groups.
- Many of these groups tend to rely more on over-the-air television, and thus more likely to be impacted by the digital transition.
- I look forward to the dialogue with our witnesses today as I'm sure they will be able clear up some long-standing questions such as…

1 Most of the converter boxes now on sale will actually block the low-power analog signal from these stations, while the full-power digital signal will display normally.

- Do we know how many viewers may be affected?

I presume that many underserved urban, elderly, and non-English speaking viewers will be affected.

For example, the Association of Public Television Stations indicated that Americans aged 65 and older are consistently more likely to receive television signals via an over-the-air antenna than are Americans under 65.

Also, a General Accountability Office study showed that over-the-air households are more likely to have lower incomes than cable or satellite households.

2 On September 11, 2007, the FCC adopted rules intended to ensure that cable customers continue to receive local TV stations after the transition. Specifically, the FCC will require cable operators to comply with a viewability requirement by either carrying analog as well as digital or carry digital only as long as subscribers have boxes which will allow them to view digital broadcasts on analog televisions.

- How will small cable companies benefit from being permitted to request a waiver of the viewability requirement?

3 I personally do know that many households in my district are not ready for the digital transition.

- What should the government do in partnership with small businesses to ensure that televisions across my district will not go dark?

- Have public education and outreach efforts been sufficient has the FCC played a sufficient role in leading the effort?

- Also, do the witnesses know if market forces will ensure that public outreach efforts are sufficient targeted to the segments of American society that I mentioned earlier in my statement that may be more at risk of being adversely affected by the digital switch-over?

4 One concern I have with industry outreach is that will likely reflect industry sector interests. The GAO reported that there is no comprehensive plan that exists for the DTV transition.

I recommend that we have a moratorium on the DTV transition and coordinate a formal federal leadership effort – such as a task force – to ensure a unified, consistent, and balanced message is conveyed to the public.

- Are there concerns with this recommendation?

5 Do the witnesses believe that the FCC should create at least an advisory committee consisting of private and public sector members?

6 Do we really know whether the converter box program will really meet the needs of analog television households?

7 Given that the converter box program is voluntary; will sufficient numbers of converter boxes be manufactured to meet the demand of consumers seeking to redeem the $40 coupons?

8 How will fraud, waste, and abuse be avoided and combated, particularly among vulnerable populations such as the elderly?

In conclusion, I would like to submit into the record testimony from **RONALD J. BRUNO, PRESIDENT COMMUNITY BROADCASTERS ASSOCIATION (CBA),** because I believe that there is another viewpoint that needs to be highlighted at this hearing today, which is the DTV transition and its impact on low power television stations.

Statement of
Gregory Hephner
President, Hephner TV & Electronics
Wichita, KS

Before the
Subcommittee on Contracting and Technology
House Committee on Small Business

Impact of DTV Transition on Small Consumer Electronics Firms

May 7, 2008

Chairman Braley and Ranking Member Davis thank you for inviting me to appear before your Subcommittee on behalf of Hephner TV and the Consumer Electronics Retailers Coalition (CERC). It is our privilege to offer you our perspective as an independent consumer electronics firm on the progress of the DTV transition in America's heartland.

Transition in the consumer electronics industry is nothing new. Our company was established by my father Lonnie in 1950 – long before Wichita had any TV stations. We have witnessed the transition from radio to TV, from black-and-white to color, from LP to 8-track to cassette to CD to iPod, from analog to digital radio, from VHS to DVD to Blu-Ray, from tube TVs to flat-screen TVs, from Standard Definition to High Definition images, and now from Analog TV broadcasts to Digital TV broadcasts. While technological changes can confuse and frustrate consumers, these same changes eventually enhance consumers' lives and are accepted and enjoyed once they are understood. As probably the smallest member of the Consumer Electronics Retailers Coalition, our management team gets to observe these changes, and consumers' reaction to and acceptance of them, on a daily basis in our own store.

The sheer scope of the DTV broadcast transition is without precedent, leading some small consumer electronics firms to choose *not* to participate in the NTIA Coupon and Education programs. The reasons given are varied, but most of these other dealers have told me that they wanted to avoid the "hassle" of redeeming coupons, providing customer education, and dealing with customer complaints. Our company, however, embraced the transition as an opportunity to provide a needed service to our community, and our experience with the upcoming transition has been very positive.

NTIA CECB Program

Hephner TV was an early participant in the NTIA's Coupon Eligible Converter Box Program. In partnership with Kyle Rogg & Tyler Brown of CLC Services (part of the IBM Team that is NTIA's Contractor), we served as a pilot site to test the coupon redemption systems prior to the general public launch. The application process with both the NTIA and the Central Contractor Registration (CCR) are simple and fast for a company of our size. We have redeemed coupons using both the retailer website and the toll free phone number with little difficulty. The CLC Services Retailer Support Center has been responsive to any questions we have had, and we have received our coupon reimbursement payments in a timely manner. We understand that the 90 day coupon expiration may create difficulties for some customers, but it also has some benefits. We've found that customers aren't putting off the purchase of their converter box; thus the demand for the boxes should be consistent over the next 12 months. In summary, we are very pleased with the coupon redemption process as created by the Congress, the NTIA & IBM/CLC Services.

Customer Education Efforts

Our observation is that consumers seem to have a high degree of awareness & interest in the DTV transition. Websites dedicated to the DTV transition sponsored by the NTIA, the Consumer Electronics Retailers Coalition (CERC), the FCC and countless others have provided a wealth of information to any consumer that has questions. National TV ads are beginning to air to inform the public.

In Wichita, we have cooperated with our local TV affiliates on news stories that educate consumers about the transition. All of our local TV stations have ubiquitous "crawls" at the bottom of the screen, directing consumers to call or log on to a website for details about the transition. Our local newspaper, *The Wichita Eagle*, continues to run stories and updates on the coupon program. It is my belief that if someone is unaware that TV is changing, they simply haven't been paying attention.

However, we also understand that awareness doesn't always translate to understanding. Creating consumer *understanding* of the transition falls to local retailers like us. We are on the front lines of public education – explaining the details of the transition, offering consumers solutions, and reassuring them that the transition will not be as draconian as some assume. To this end, we are successfully using the free handouts produced by the NTIA on their website. We also use reprints of pertinent newspaper articles as handouts, and post helpful links on our own company website. We have observed that once we educate customers about the transition in easy-to-understand terms, they are relieved that they won't have to make any changes if they are on cable or satellite, or that the converter box solution is simpler than they imagined.

Customer Complaints

Customer complaints have been surprisingly low. Very few customers have mentioned any problems with the coupon application process. Most customers have had little trouble connecting the boxes. In fact, many customers have been pleasantly surprised that they are actually receiving *more* channels via the digital box than they did with their analog tuners. (KWCH, our local CBS affiliate, broadcasts a 24-hour live weather channel in addition to their regular CBS Programming. The PBS network is now able to offer 3 channels - PBS, PBS-Kids and PBS Create). Overall, we have fielded substantially fewer complaints than I had anticipated.

Conclusion

From our vantage point, the DTV transition is progressing very smoothly. The coupon redemption procedures designed by the NTIA & IBM/CLC Services are easy to use and transparent. We have seen little of the consumer "angst" that was predicted. Our customers understand the transition and are preparing themselves for the day that most analog broadcasts end. We would encourage the NTIA to continue the programs that are currently in place. The existing systems strike a good balance between the needs of the consumer and the retailer, while offering reasonable security against fraud.

At Hephner TV, we are excited to be a part of one of the largest technological upgrades in the last 60 years. The transition has spurred an unparalleled public interest and enthusiasm in the products we sell and in our industry as a whole. We look forward to the coming months with eagerness and optimism. I appreciate this Committee's interest in us and our concerns, and I hope you will remain in touch with us as this transition moves to its conclusion next year.

Testimony of Edward S. Pardini,
Senior Vice President of Operations, North Central Division
Mediacom Communications

on behalf of
The American Cable Association

Before the
House Subcommittee on Contracting and Technology
of the
House Small Business Committee

The DTV Transition and Small Businesses:
Small Firms Contributing to a Big Change

May 7, 2008

Thank you Chairman Braley, Ranking Member Davis, and members of the subcommittee.

My name is Ed Pardini, and I am Senior Vice President of Operations, North Central Division at Mediacom Communications, an independent cable business. At my division, based in Des Moines, Iowa, we have the privilege of serving smaller cities and towns throughout Iowa, Minnesota, North Illinois, South Dakota, and Wisconsin, where we provide a wide array of broadband products and services, including traditional video

services, digital television, video-on-demand, digital video recorders, high-definition television, high-speed Internet access and phone service.

I am here today to testify on behalf of the American Cable Association, of which Mediacom is a member. ACA is the voice for nearly 1,100 small and medium-sized cable companies across the country that together serve more than 7 million households. The association's members range from family-run businesses serving a single community to multiple system operators, like Mediacom, providing service to smaller markets and rural areas. More than half of ACA's members' systems serve fewer than 1,000 customers, and most serve rural communities with only a few hundred homes.

Small cable operators are important businesses in their communities. In addition to providing broadcast and cable programming, top quality local-based customer service, and jobs to hard working Americans, many of ACA's members offer exclusive community programming not carried by other operators, like our very own Iowa based Mediacom Connections Channel. And, in many smaller communities, ACA members are the only providers of high-speed Internet access.

ACA and its members are committed to ensuring a successful digital transition and know we have a role in educating consumers about the transition. For this reason, ACA is an active member of the Digital Television Transition Coalition, working with other

business, trade and industry groups to ensure that no consumer is left without broadcast television after the transition because of a lack of information.

For our part, Mediacom has undertaken a massive education campaign to prepare consumers in our markets for the digital transition. In addition to running regular public service announcements across our cable systems and including information in our monthly billing statements, we have mobilized a team of professionals to meet with local community organizations and participate in local talk radio programs about the digital transition.

While ACA and its members are committed to ensuring a successful digital transition, the switch raises some unique concerns for small cable operators, which, if not appropriately dealt with, would harm consumers who subscribe to cable.

First and foremost, ACA and its members are committed to ensuring that all of our subscribers can view broadcast stations after the transition just as they did before. ACA's members are collectively investing tens of millions of dollars to purchase the equipment necessary to receive and convert the broadcasters' digital signals into a format that is viewable on both digital and analog sets without the need for a converter box. Small cable operators are also reaching out to the broadcasters in their community to address any technical issues, specific to their market that might interfere with their subscribers receiving their broadcast signals after the transition.

With respect to the digital must carry obligations imposed upon the industry in the Federal Communications Commission's (FCC) 2001 Report and Order, we welcome FCC Chairman Kevin Martin's recent announcement of a proposal that would provide an exemption for certain small systems. At the ACA's Summit in Washington, D.C., the Chairman told independent operators that with few exceptions, all cable systems with 552 MHz or less of capacity would be exempt from the digital must carry obligations of this Order, as long as the must-carry broadcasters' signal are viewable by all their systems' subscribers. This provides many small system operators with the flexibility to decide how to invest their limited resources in ways that best serve their customers' needs, such as providing important advanced services, in small markets and rural areas. The ACA is currently working with the Commission on a final Order to be adopted by the agency that we hope will resolve the concerns of all its members.

Currently, the government, broadcasters, and cable operators are working together to minimize the consumer confusion and viewing disruptions associated with the digital transition. However, with the digital transition scheduled for the same time that many small cable operators will be negotiating with broadcasters for the right to retransmit their signals, the ACA is concerned that broadcasters will continue to force cable operators to drop their broadcast signals as a means of pressuring small operators into accepting unfair deals with no regard to the confusion lost signals would cause consumers in the months before and after the transition.

In the second half of 2008, the rights of many cable operators to continue offering local broadcast signals in their markets under typical three-year retransmission consent agreements will expire. The ACA expects a significant number of its members to face difficult negotiations with the broadcasters who commonly leverage their market power to demand unreasonable prices, terms, and conditions from small and medium-sized operators. As it stands, federal retransmission consent and network non-duplication rules have granted the broadcasters unrestrained power in these negotiations. Broadcasters commonly leverage both exclusivity in their market and the right to demand payment for their signal, to discriminate against small and medium-sized operators, including charging higher fees from smaller operators than from larger ones for identical content, delivered at the same cost. According to Economist William Rogerson, former FCC Chief Economist, small cable operators pay between 200 – 1,100% more for broadcast stations than their larger counterparts.

Often, during these one-sided negotiations, a broadcaster will go so far as to force a small cable operator to drop its signal until the operator agrees to the broadcaster's terms. Recent history has proven that broadcasters are willing to use consumers as pawns, and disrupt service when it suits their goals. This is precisely what happened in early 2007 when 2 million television viewers in 700,000 households were disrupted by Sinclair Broadcast Group's unilateral decision to pull 22 broadcast stations from Mediacom cable systems in 12 states.

In September 2007, the FCC issued a rulemaking seeking comment on revisions to the Commission's program access and retransmission consent rules. The ACA filed comments in this proceeding describing the broadcasters' discriminatory conduct toward small cable operators. More recently, Mediacom and several other independent cable operators, filed a petition with the FCC asking the Commission to promptly adopt a retransmission consent "quiet period" to ensure that private commercial disputes in the months surrounding the February 17, 2009 digital transition do not unnecessarily trigger consumer confusion or service disruptions at a time when the American public is most dependent on the cable industry's delivery of broadcast signals.

To put an end to discriminatory retransmission consent practices and ensure uninterrupted service for ACA's more than 7 million subscribers, we would encourage this Committee to conduct its own review of these practices that cause great harm to our country's small communications providers and their customers. We also urge every Member of Congress to play an active role in monitoring the negotiations in their state or district to ensure broadcasters are not forcing small cable operators to drop signals in the months before and after the digital transition is scheduled to occur.

Chairman Braley, Ranking Member Davis, and members of the subcommittee, thank you again for the opportunity to testify.

TESTIMONY OF

KEITH OLIVER

ON BEHALF OF

HOME TELEPHONE COMPANY

And

THE ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES

Before the

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SMALL BUSINESS
SUBCOMMITTEE ON CONTRACTING & TECHNOLOGY

"THE DTV TRANSITION AND SMALL BUSINESSES: SMALL FIRMS CONTRIBUTING TO A BIG CHANGE"

May 7, 2008

Introduction

Good afternoon, Mr. Chairman and members of the committee. I appreciate the opportunity to testify before you today. My name is Keith Oliver, Senior Vice President of Corporate Operations of Home Telephone Company in Monks Corner, South Carolina. Home Telephone is a small business, and is classified as a rural telephone company under the 1996 Telecommunications Act. In addition to providing voice services, like most rural telephone companies, Home Telephone also provides broadband and video services to the homes and small businesses in our community.

I am also here in my role as Chairman of OPASTCO - the Organization for the Promotion and Advancement of Small Telecommunications Companies. OPASTCO is a national trade association made up of more than 600 small, local telecommunications carriers serving rural areas. Rural carriers are predominately small businesses, having an average of 22 employees. OPASTCO members embody the universal service concept, offering high-quality services to all of the customers in their territories, which are often not lucrative enough to attract the major national carriers. Collectively, our members serve approximately six million customers in 47 states.

OPASTCO Supported Congress' Decision to Implement the DTV Transition

OPASTCO was part of the High Tech DTV Coalition, which encouraged Congress' decision to institute a hard date for the DTV transition. We supported this effort because the 700 MHz spectrum that will be made available by the transition is ideally suited to delivering broadband services to customers, especially in sparsely populated areas that are not lucrative enough to attract large national carriers. Because of this, as well as for other reasons I will relate below, the DTV transition has, for us, always been about deploying more broadband to homes and small businesses in rural America using both wireless and landline technologies.

The 700 MHz Auction Favored Large Carriers at the Expense of Small Providers

OPASTCO had hoped that the auction of the 700 MHz spectrum would provide small companies with affordable access to viable wireless broadband spectrum. However, due to the decision of the Federal Communications Commission to auction the spectrum off in large geographic licensing areas, small providers were able to obtain very little of that prime spectrum. While some tout the fact that rural companies successfully bid on 11 percent of the total licenses, looking at the license blocks and their associated coverage capabilities offers a more telling perspective. When measured in terms of population coverage and the makeup of the spectrum blocks in the 700 MHz auction, small rural carriers were able to obtain less than 1.5 percent, according to an analysis performed by the Rural Telecommunications Group. We feel that this result is not in accord with the intent of Congress. Section 309(j) of the Communications Act directs the FCC to ensure that small entities, specifically including rural carriers, have a reasonable chance of obtaining spectrum. We have repeatedly asked the FCC to adhere to Section 309(j) by auctioning spectrum in smaller geographic licensing areas so that community-based

carriers can have a fighting chance to bid successfully against the large nationwide providers.

Home Telephone was among the small businesses that participated in the 700 MHz auction, but like so many others, we were outbid by the likes of Verizon and AT&T. The large providers will probably build out networks in the lower cost, more populated areas. But unlike small carriers, they do not have the incentive to build wireless networks in higher cost areas with lower population densities. The end result is that people in rural areas will have less access, if any, to wireless broadband services. If small providers had been able to obtain this spectrum, they would build out networks and provide service to homes and businesses in rural communities.

Small geographic licensing areas were successfully used in the early days of analog cellular telephone service, when spectrum licenses were based in part on Rural Service Areas. This resulted in cellular telephone service being made available in many rural areas that would not have had it otherwise. Instead of maintaining this winning formula, the FCC has since moved to larger license areas that, due to their size, are too expensive for small companies to obtain. Theories that large companies would parse out portions of spectrum to smaller entities never became a reality. Therefore, consumers and businesses in many rural areas have less access, if any, to innovative wireless services.

Small carriers have been pleading for years with the FCC and Congress to return to the small license areas that made Section 309(j) a success. But as wireless service becomes more important to consumers, wireless spectrum, including 700 MHz and its potential for broadband applications, is increasingly out of reach for small carriers that are most dedicated to serving the homes and businesses of rural communities.

Rural Carriers and Public Notification

Small carriers understand the need to help inform the public about the DTV transition, and we are happy to do our part. However, the federal government has paid scant attention to the very real costs that are associated with this undertaking. Specifically, the FCC has required small carriers to notify customers who participate in programs designed to help low-income consumers obtain and maintain telephone service about the DTV transition by including information in telephone bills. Yet the FCC has barely acknowledged that there are any costs associated with doing so. In addition to placing a disproportionate burden on small carriers, it is a cause for even greater concern because the FCC is now considering expanding this requirement to all consumers of telephone services. There is insufficient consideration of how small carriers will recover costs such as printing and extra postage. Most carriers' bills do not have enough room left on them to include notification of the transition without adding another piece of paper to the mailing.

In addition, many small carriers are not large enough to have their own billing system. Instead, they obtain billing services from contractors in order to keep costs down for their customers. Changes to billing regulations mean that the smallest carriers have to alter

their arrangements with billing contractors, which can incur additional charges. There is little recognition that these new requirements result in new costs to small businesses.

Furthermore, it is not just the costs of making the changes that need to be accounted for. When we include new information on phone bills, customers understandably call the carrier who sent them the information. Even if we put the DTV phone number and website on the notifications, it is we, the carriers, who receive calls from confused consumers. Therefore, we have to take extra time to train our customer service representatives on how to help customers who have questions. When customers call about the DTV transition, other customers with questions about telephone, or broadband, or video services will experience longer waits. This may not be a major problem for large carriers with thousands of customer service staffers. But rural carriers have an average of four customer service representatives (CSRs). When you only have four CSRs, taking calls on an issue your company has no control over detracts from your ability to serve your customers.

Furthermore, as noted earlier, there is a proposal that would require carriers to send notifications to all of our customers, not just those in the low income programs. In Home Telephone Company's case, that would cost us an additional $23,000 in total. While this might not sound like a lot of money to the large nationwide telephone companies, this is a significant expenditure for a small business. And this does not take into account the additional training and staff time that we will have to dedicate to these efforts.

Again, small carriers understand the importance of informing the public about the DTV transition, but the costs associated with these requirements should not be dismissed. If we are expected to absorb these costs, both in terms of funding and scarce personnel resources, it will slow our efforts to continue expanding broadband and other innovative services to our customers.

There are also a number of technological issues related to equipment, mostly at the customer's location, impacted by the DTV transition that are perhaps too detailed to go into here today. Suffice it to say that we are addressing these technical issues at the FCC, where the record is mixed. Sometimes the FCC asks the right questions, but other times it is a challenge to have the concerns of small broadband video providers acknowledged.

On a related note, I would like to mention here that we are very encouraged by the introduction in the Senate of S. 2902, the "Independent Office of Advocacy and Small Business Regulatory Reform Act." This legislation, introduced by Senator Olympia Snowe of Maine, would enhance the federal government's efforts to consider the impacts of new rules on small businesses and look for alternatives. This is an area where there is much room for improvement, and we hope that the House Small Business Committee will give similar legislation very serious consideration.

Dual Carriage

I would now like to turn our attention to where it appears that the FCC might be moving in the right direction. As the transition to DTV commences, the FCC has determined that video operators must convert many digital broadcast signals into analog format for its analog subscribers. If the station has a High Definition digital signal, the FCC obligates the operator to carry that signal also. This is known as the dual carriage obligation.

Many small carriers are providing video services using DSL or fiber to the home technologies; or they hope to do so soon. The more recent variants of these technologies are all-digital to start with. In these cases, the dual carriage rule has no impact. However, smaller video operators that have been serving customers for years simply may not have the network capacity to meet this requirement. This is especially true when you consider how many extra, unwanted channels that programmers require small cable companies to carry. These unwanted channels, linked to "must have" content in a practice known as tying, force small video providers to take up scarce space in the channel lineup and further limit their ability to comply with the dual carriage rule.

Fortunately, the FCC is considering exempting the small providers whose networks do not have the capacity to meet this mandate. We certainly hope the FCC will expeditiously grant this exemption.

Access to Content Enables Broadband Deployment

The FCC is also moving in the right direction when it comes to access to video content. For example, we commend the FCC for considering how the practice of forced tying of unwanted channels with "must have" programming, mentioned above, impedes competition and further broadband deployment. In order for small carriers to provide viable video services to customers, programming must be available under reasonable terms and conditions. This is not just a video competition issue. The FCC has found firm evidence that when video and broadband services are bundled together, customers buy more of each. This reduces barriers to investment in broadband infrastructure, even in high cost areas served by small telephone companies.

The FCC was also correct when it maintained a ban against exclusive contracts for certain video content that is necessary to provide a viable service to customers. The FCC determined that this step was necessary because it found that programmers retain the ability and incentive to deny or restrict access to content, and have done so when they are given the opportunity.

But these are just the first small steps that the federal government can and should take in order to encourage more broadband deployment by preserving and extending access to video content for small providers and their customers.

Congress also should encourage the FCC to close what is known as the terrestrial loophole. This is a holdover of an interpretation of the program access rule from before

the rise of fiber networks, when satellite was essentially the only way to deliver video content to small cable companies. The loophole allows vertically integrated programmers to get around program access rules, so they can restrict the content that is available to their smaller competitors. Again, this impedes not just customer choice in the video market, but also broadband deployment.

The retransmission consent process is also in need of reform. This is particularly important in light of the DTV transition. I am not an engineer, but technical people tell me that customers who live furthest from broadcast towers and are barely able to pull in analog signals may have trouble receiving digital signals over the air. This might increase their interest in receiving service from a cable or broadband video provider like Home Telephone. But retransmission consent rules play a large role in the prices small broadband and cable companies have to pay for video content, which of course determines what we have to charge customers.

The current retransmission consent rules, which were created before we saw the media consolidation that exists today, permit broadcasters to demand payment from small cable and telephone companies for their content. We have no argument with that, but the rules also prohibit small providers from going to other nearby markets to obtain the same content at better rates. Congress should work with the FCC to reform the retransmission consent process to allow market forces to work and not let the stranglehold that a handful of companies have on programming further impede broadband investment. H.R. 2821, the "Television Freedom Act" introduced last year, would allow video providers to obtain content from adjacent markets and would be a good first step towards letting the free market help control video costs.

Let me emphasize that OPASTCO does not favor intrusive regulation of the video content market. We only seek reforms of existing regulations that were never intended to restrict the ability of small broadband providers to compete in the video market. But due to changes in the marketplace since these rules were put in place, that is the effect they have today. We only ask for a modernization of the rules that will let us serve customers and expand broadband deployment. Chairman Martin and the Commissioners at the FCC appear to understand these problems, and are asking many of the right questions. We hope that you will encourage the FCC to reform rules regarding tying and retransmission consent, and to close the terrestrial loophole.

In conclusion, let me stress again the need for government to consider the impacts on small broadband providers when it imposes new regulations, however well intended. Congress directed that small carriers should have a reasonable chance to obtain access to wireless spectrum, including broadband spectrum like 700 MHz. Yet the way auctions and licenses are structured, this has become increasingly difficult. Finally, there is an intrinsic link between access to video content and the deployment of broadband. Therefore, I hope that this subcommittee, and Congress as a whole, will encourage the FCC to reform outmoded content access rules and reduce the stranglehold that a few large programmers are using to impede video competition and further broadband deployment. Thank you very much.

STATEMENT OF JACK DEMPSEY,
GENERAL MANAGER, WJHL-TV, JOHNSON CITY, TENNESSEE

Committee on Small Business
Subcommittee on Contracting and Technology
"The DTV Transition and Small Businesses: Small Firms Contributing to a Big Change"
May 7, 2008

My name is Jack Dempsey, and I am the general manager of Media General's WJHL-TV station in Johnson City, Tennessee, which is located in the Tri-Cities Tennessee/Virginia market, the 91st ranked television market in the U.S. The Tri-Cities market covers a large, mountainous area, including the three cities of Johnson City, Tennessee; Kingsport, Tennessee; and Bristol, which straddles the Tennessee/Virginia border.

For more than 22 years, I have been involved in broadcasting in the Tri-Cities market, and during that time I have seen tremendous changes. Most significant among these changes is that WJHL now competes with hundreds, if not thousands, of new programming and information sources reaching our viewers in print, over-the-air, through cable and satellite, by wireline and wireless telephony, and on the Internet. At the same time that we have seen our audience fractionalized by this competition, WJHL and television stations like it throughout the country have invested millions of dollars to convert their broadcasting facilities from analog to digital, have educated their viewers about the change, and now produce or purchase new digital television (DTV) programming.

We remain fully committed to the DTV transition because we believe it will bring significant benefits to the public, but I came here today to explain that we have made this transition at a significant cost. At this point in time, we have spent at least $6 million on making the DTV transition, and unfortunately, this transition has produced virtually no increase in revenue that we can use to offset the costs that we have had to incur. The impact has been

particularly severe in smaller markets like the Tri-Cities designated market area (DMA). The costs of implementing the DTV transition are relatively the same in small and large markets, but the potential for small markets to recoup the costs is far less than in larger markets.

Technical Changes. To transition WJHL to digital broadcasting, the Federal Communications Commission (FCC) assigned our station Channel 58 for temporary operations until the transition ends on February 17, 2009. Our analog channel is Channel 11, and we will return to that channel at the end of the transition. In first constructing WJHL's transitional DTV facilities on Channel 58, we had to buy and install a new antenna on the side of our tower, keeping our analog antenna in place at the top. In addition to a new antenna, we had to install a new DTV transmitter, a new filter, and new transmission line. We completed construction of our initial transitional DTV facilities in early 2002. Since then we have been "simulcasting," or broadcasting in both analog and digital modes, which has increased our electrical costs because we are essentially running two facilities. For three of the past six years, we were authorized to operate our digital facilities on Channel 58 at reduced power, but since 2005 we have been at full power. In small markets such as ours, where less than 17 percent of the residents own television sets with DTV tuners, it has been important for us to continue broadcasting in analog to reach most of our audience. This dual operation, however, particularly now that DTV channel 58 is broadcasting at full power, has come at a high cost.

Having built and operated one set of transitional digital facilities for six years on Channel 58, we must soon undertake the costs of installing facilities that will broadcast on the permanent DTV Channel 11 that the FCC assigned to us as part of the channel election process that finally concluded earlier this year. To do this, we will install a new Channel 11 antenna atop WJHL's tower later this year and convert our Channel 11 analog transmitter to digital. On February 17,

2009, WJHL will stop broadcasting in analog on Channel 11 and begin permanent digital operations on that channel. By the time we cut over to our permanent DTV channel, we expect that we will have spent at least $6 million to complete WJHL's transition to digital. Almost a third of that amount will have been spent on the transitional Channel 58 equipment that we will no longer use after February 17, 2009, such as the Channel 58 DTV antenna mounted on the side of WJHL's tower as well as the transmitter, filters, and transmission line used with that antenna. Unfortunately, these items will have virtually no resale value, and, as a result, about one-third, or $2 million, of our DTV conversion expenses will have been "stranded" costs that we can not recoup.

Viewer Education. It is in our best interest to educate all of our viewers on the benefits of the digital transition and the steps necessary to ensure our viewers continue to receive broadcast signals. For that reason, we are proud partners with the government and other industry groups in this effort. I have attached to my testimony a list of the members of the DTV Transition Coalition and the Comprehensive DTV Consumer Education Campaign document that details all that the National Association of Broadcasters is doing to ensure a smooth transition.

As a station, we at WJHL have also made extensive efforts to educate the public about the transition. As you know, the FCC earlier this year adopted rules requiring all television stations to broadcast public service announcements, crawls, and other on-air notices informing the public of the February 17, 2009 deadline for the end of analog television broadcasting. Those rules went into effect on March 31, 2008, and under them, we are broadcasting at least 16 PSAs and 16 crawls, snipes, or tickers every week. To comply with these requirements, before the end of analog broadcasting in February 2009 we will also broadcast at least one 30-minute special providing detailed information about the transition for our viewers.

Importantly, we at WJHL did not wait until we had mandates from the federal government to run PSAs, but rather were broadcasting a series of PSAs related to the transition early on. We have also devoted time in our newscasts to covering the transition, and we have dedicated a portion of our Internet homepage to providing information on the transition. I have also attached the DTV.gov Transition Partners Quarterly Report filed with the FCC on April 9th that details all of the industry efforts we are undertaking.

In addition, I am a member of the DTV speakers' bureau of the National Association of Broadcasters. In this role, I have spoken about the transition to numerous civic organizations, such as the Bristol Morning Rotary Club, the Jonesborough Kiwanis Club, and Metropolitan Johnson City Kiwanis Club. In the first half of the year since I began speaking to groups like this about the DTV transition, I have noticed a great increase in awareness about what is coming. At my first meeting with the Bristol Morning Rotary in February, only one of thirty-five members had heard of the February 17, 2009 DTV transition deadline. In my last address to the group, everyone attending the meeting was aware of the transition. I believe that through these and other efforts, which have involved direct and indirect costs, WJHL and the broadcast industry have been very effective in ensuring that members of the public know about, and are prepared for, the transition to digital broadcasting. This awareness has not, however, made the transition any less expensive for us, nor has it resulted in any significant income from our DTV broadcasts, but it is vitally important to the success of the transition and we stand committed to educating our viewers.

DTV Programming, Cable Carriage and Network Compensation. As I said, since 2002 we have offered a simulcast of the programming on our analog channel on our primary DTV channel. This channel has also offered high definition programming to those who can receive it.

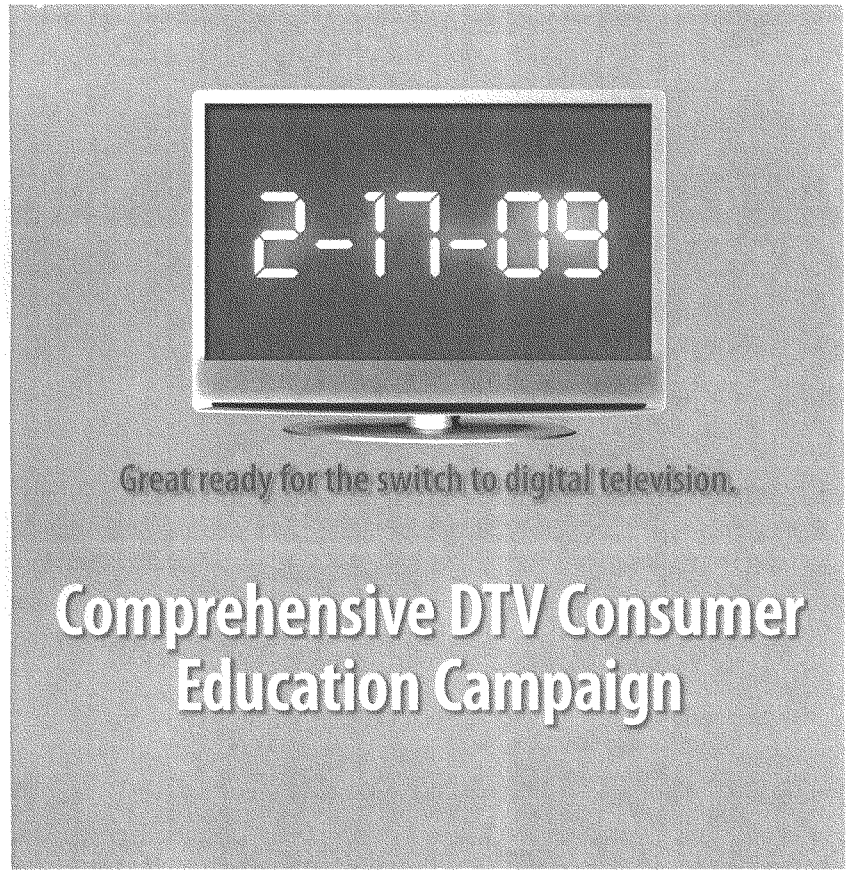
In late 2006, we launched a 24-hour locally-produced weather channel using a second DTV channel. The programming on this channel is updated at least four times a day by our local meteorologists, and many of the weather maps and other graphics are updated hourly. The very limited cable carriage of this multicast channel has also affected our ability to obtain any new revenue from the channel. Although we have arranged for its carriage on the two largest cable systems serving our DMA, they carry the channel only on their digital tiers, which reaches 35-40 percent of the cable homes in the market. In the current must-carry/retransmission consent cycle, we have not received any fees from cable systems carrying our channels, be they analog or digital.

The small level of revenue that is actually produced by our digital weather channel, which in 2007 totaled $7,300, is a mere drop in the bucket compared to the costs of production and broadcast. As much as we would like to sell more advertising, our efforts to do so are hampered by the lack of any ratings information for this multicast channel. In addition, there is no commercially available ratings information measuring the viewership of our primary DTV channel separate and apart from our analog channel. Without ratings data, we are stymied from coming up with other ways to obtain more advertising revenue from our DTV investment.

While we have committed large sums of money, time, and effort to building our digital facilities, educating the public, and providing DTV programming, we find that other streams of revenue are evaporating. For instance, at one time we received compensation from our network affiliation agreement, but today the market has changed such that local affiliates are now paying the networks for content.

Now more than ever, broadcasters face far greater competition from a wider variety of sources, while traditional revenue streams such as network compensation have dissipated. In the midst of this increase in competition and decline in revenues, we have been required by law to spend significant amounts of money on building facilities for digital broadcasting and informing the public about the changes. These costs have had a particularly severe impact on small broadcasters in smaller markets. What many do not know or understand is that as a smaller broadcaster in a smaller market, we face essentially the same costs as broadcasters in large markets, but we lack the advertising revenues of those large market stations to soften the impact of these costs.

Nonetheless, we remain fully committed to the DTV transition and believe that through our efforts and sacrifices, the public will be well prepared on February 17, 2009. While I do not bring you a specific "ask" today, I urge the Committee on Small Business to keep these broadcaster sacrifices in mind in the future as you consider any legislation that may have an effect -- direct or indirect -- on our industry.



DTV Answers

An initiative of the National Association of Broadcasters.

Overview

DTVAnswers.com

An initiative of the National Association of Broadcasters

The National Association of Broadcasters (NAB), in a coordinated effort between local television stations across the country and their network partners, have put forth an unprecedented consumer education marketing effort to reach television viewers with information about the February 17, 2009 transition from analog to digital television (DTV).

Ensuring that all viewers are prepared when the federally-mandated switch to digital-only broadcasting occurs is a top priority of all television broadcasters, networks and the premiere advocacy organization that represents them in Washington, D.C. – the National Association of Broadcasters.

Consumers have much to gain with the transition to digital television, including crystal clear pictures and sound and a variety of new services, ranging from additional free broadcast channels to advanced data services. But millions of households that rely on free, over-the-air broadcast signals risk losing television reception unless they take steps to upgrade.

Since late 2006, efforts to educate consumers have been underway, spearheaded by an NAB team dedicated solely to digital transition education. In the second phase of this critical effort, broadcasters and networks are unveiling a multi-platform, multifaceted marketing effort to complement the variety of other initiatives dedicated to educating consumers about the nation's switch to digital broadcasting.

With the immense amount of activity broadcasters and their network partners are undertaking to educate consumers on the transition, NAB engaged Starcom MediaVest Group as a strategic partner to help construct the plan and quantify the reach of these initiatives. Starcom MediaVest Group is the largest media services organization in the country, responsible for more than $16 billion in media spending annually. Using their proprietary, state of the art software program – Tardiis – Starcom MediaVest Group was able to calculate approximate impressions and valuations of the consumer education campaign. Given the immense differences between communities across the country, it is imperative that broadcasters utilize a number of different tools to educate their viewers about the transition to digital. A one-size-fits-all approach to consumer education can not efficiently educate viewers whose composite differs from market to market. No one knows how to reach television viewers about their viewing experience better than their local broadcasters. This education initiative is an important part of broadcasters' ongoing commitment to their viewers and their communities.

Starcom MediaVest
GROUP

October 15, 2007

David K. Rehr, Ph.D.
President and CEO
National Association of Broadcasters
1771 N Street, NW
Washington, DC 20036

Dear David:

On behalf of Starcom MediaVest Group, I'd like to thank the National Association of Broadcasters for trusting us with the important task of counseling the NAB on the best approach for informing and educating the U.S. television viewing public of the impending switch from analog to digital television.

Starcom MediaVest Group is the largest media services organization in the country, responsible for more than $16 billion in media spending annually. We are honored to serve some of the largest and most dynamic marketers in the country, including General Motors, Procter & Gamble, Coca-Cola and Kraft, just to name a few.

Given the rapidly changing media landscape, smart marketers today rely on multi-communications platforms for reaching their target audiences. Sophisticated marketers realize that consumers are increasingly elusive, and relying solely on one medium is rarely sufficient for delivering their messages. This modern philosophy goes by many names, including "holistic planning", "channel planning", or any number of industry terms. But the driving principle is consistent: it is important to engage consumers across numerous media elements in order to effectively communicate a message.

The multi-platform marketing plan that the NAB has developed with the help of Starcom to communicate this important initiative embraces the principles of multi-channel communications. It utilizes the broadcasters' commercial inventory, along with their digital assets. It includes place-based and outdoor media. It utilizes grassroots elements at the local level. It also includes significant public relations efforts that will deliver considerable coverage in newspapers, on television and radio and online. There will also be numerous word-of-mouth and "viral" efforts that will spread the message throughout the community.

On behalf of Starcom MediaVest Group, I fully endorse the multifaceted approach being taken by NAB.

Best regards,

Renetta E. McCann

Renetta McCann
Global CEO
Starcom MediaVest Group

Executive Summary

DTVAnswers.com

Background

As mandated by the Deficit Reduction Act of 2005, all full-power television stations must cease analog transmissions on February 17, 2009 and begin transmitting in a digital-only format.

In preparation for this transition, the National Association of Broadcasters (NAB) has developed a comprehensive communications and education campaign. The purpose of this campaign is to alert the U.S. television viewing public of the impending shift and to inform them of the measures they need to take in order to ensure that they will be prepared to receive television broadcasts once the transition takes place.

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 TVs in these households, or approximately 45 million televisions. In addition, there are an estimated 24 million broadcast-only televisions in households that also have cable/satellite/internet connections. In total, nearly 69 million televisions would be affected.

The NAB has engaged Starcom MediaVest Group (SMG) as counsel in the development of this marketing campaign. Starcom MediaVest Group is the largest media services organization in the United States, representing dynamic advertisers such as General Motors, Procter & Gamble and Coca-Cola in the development of their strategic marketing programs.

Plan Overview

SMG, along with the NAB, has developed a dynamic, multi-channel communication plan that will reach virtually every American adult with sufficient frequency to alert and educate them of the impending transition to digital television. The plan fully leverages all of the assets of the participating stations, including commercial inventory, online resources, community events, talent and outdoor advertising.
A soft-launch of the campaign is underway, with encouraging results. While NAB and many broadcasters have already begun valuable education efforts, the next phase of this comprehensive plan began in earnest October 2007.

NAB has made a significant investment in staff, having hired a five-person, full-time staff dedicated exclusively to DTV transition consumer education. The staff has already utilized outside experts to conduct significant consumer research, in the form of surveys and focus groups to find out as much as possible about the universe of American over-the-air, broadcast-only viewers. NAB has also visited and opened dialogues with officials running respective DTV campaigns in the United Kingdom, Sweden, Austria and Belgium to ascertain how European nations are running their transition campaigns. NAB's plan is based upon solid consumer understanding, demographic and viewership knowledge and the experience of other global nations.

NAB has developed and is supporting *www.DTVanswers.com*, a comprehensive Web site, which is a resource to educate consumers, journalists and opinion leaders about the DTV transition. The Web site address will be included in all communications materials. In addition, for those constituents who prefer telephone contact, there is a government sponsored (800) number phone line resource for information as well.

NAB has engaged SMG, along with several other leading communications firms, to aid in the development of their plan. In addition, NAB is working with specialists in media planning and buying, public relations and event marketing to develop programs that will surround the TV viewing public with informative communications, many of which will be hands-on in nature.

Executive Summary

DTVAnswers.com

An initiative of the National Association of Broadcasters

NAB has already developed communications materials, including:

- DTV Action Spots in English and Spanish
- Video packages for stations' news departments, including B-roll footage and other graphic elements that can be used to develop and edit stories regarding the digital transition
- Toolkits for federal and state policy makers, complete with presentations and Web banners
- Brochures and collateral materials that have been distributed through coalition partners and at trade shows

The above materials are being produced and delivered to all of NAB's 1,169 member television stations. In addition, NAB made these materials available to non-member commercial and non-commercial stations as well. NAB will also produce 30-minute educational programs for local stations.

In order to seed the campaign message, SMG has instructed NAB to recommend to its member stations and networks a comprehensive program of DTV Action Spots, air time and other on-air features. The program is based upon a combination of running quarterly DTV Action Spots and airing of the 30-minute educational programs and informational messages through crawls, snipes, news tickers and other impactful features, such as a 100-day "count down" program to be included in all local news broadcasts.

Word-of-mouth and other techniques that can spread the word "virally" are critical for the success of educational campaigns. NAB has developed a program of grassroots initiatives that will provide community-level activities to drive the message home. NAB has already recruited a 700-person speaker's bureau for an anticipated 8,000 speaking engagements at venues all across the nation, including local chambers of commerce, senior centers and civic clubs. Two customized tour trucks, designed to look like televisions on wheels, will be crisscrossing the country, stopping at more than 600 local events in over 200 markets. Hands-on education and instruction regarding digital converters will be conducted at these events.

In addition, NAB has formed a coalition with more than 170 organizations, such as AARP and National Council of La Raza (NCLR), to help get the word out regarding the digital transition. Each of these organizations has agreed to utilize their existing communications materials to communicate the news of the transition to their membership. Additionally, NAB's DTV team has been teaming with coalition partners to exhibit and distribute information at their annual conferences and trade shows.

These types of grassroots efforts will be extremely important to provide further context to the transition message and will enhance the understanding of the DTV Action Spot television campaign. SMG endorses these efforts, recognizing that they will provide incremental activities to some of the disproportionately affected groups: senior citizens, minority populations, lower-income constituents and rural populations.

Media coverage of the transition story, in addition to coverage of many of the grassroots components, is anticipated to be significant. This transition affects many Americans and is duly newsworthy. NAB has a full-time media relations staff member whose sole purpose is to make sure that the DTV transition is being covered both accurately and ubiquitously by America's reporters. NAB has briefed reporters from major news organizations and plans to facilitate reporter briefings in all 50 states. With the aid of NAB's public relations agency, Crosby Volmer International Communications, NAB will push local news "hooks" into

stories in major metro areas, suburban areas and in the heartland. We anticipate significant news coverage across local television, radio and newspapers, as well as their Web sites.

As the media marketplace continues to evolve to meet consumer needs, the member stations of NAB have developed significant assets beyond just their commercial inventory. The members have significant online assets that they can bring to bear for this program. In addition, some members also have significant outdoor advertising assets that will be utilized to communicate the transition message.

SMG has proposed that a combination of streaming and display advertising be donated on the stations' Web sites to support the transition campaign. Significant exposures are anticipated from this component of the campaign, extending the overall reach of the message.

Finally, paid media will be utilized to supplement activities in key markets where public awareness of the transition lags. Advertisements in newspapers, at public transportation hubs and at key retailers have been recommended in these areas.

Plan Delivery

NAB's plan will drive the message of the DTV transition across numerous consumer media touchpoints. By engaging consumers via television, in the news media, online, through outdoor efforts and in direct, grassroots events, the message will be seeded and communicated much more effectively than through television advertising alone.

SMG has quantified and estimated the overall delivery of this campaign utilizing the agency's industry-leading tools. SMG projects that virtually the entire U.S. adult population will be exposed to these messages.

It is the opinion of Starcom MediaVest Group that this is a dynamic, multi-channel communications program that will be effective in communicating the digital transition to the U.S. population.

DTV Consumer Campaign Overview With 100% Station Commitment

DTVAnswers

Television Elements	Impressions (18+)	Reach	Average Frequency	Approximate Value
DTV Action Spots	30,073,407,000	91.9%	151.6	$604,810,300
Crawls, Snipes and/or Newstickers	9,580,262,000	72.5%	61.2	$35,016,200
30-Minute Educational Programs	192,412,000	12.7%	7	$4,191,700
100-Day News Countdown	88,749,728,000	83.5%	492.5	$350,272,700
Newspaper Coverage	1,768,727,000	58.3%	14.1	$2,651,600
Online Newspaper Coverage	486,697,000	13.7%	16.4	$1,062,400
DTV Road Show	1,780,598,000	42.9%	19.2	$7,321,800
DTV Speakers Bureau	1,000,000	1%	1	$2,000,000
Banner Ads on Station Web sites	225,542,000	11.2%	9.3	$457,700
TOTAL	**132,858,372,000**	**95.8%**	**642.7**	**$1,007,784,300**
Public Television Commitment			+	$50,000,000
			TOTAL COMMITMENT =	**$1,057,784,300**

About Tardiis: *Tardiis is a state-of-the-art television optimizer exclusively developed for Starcom MediaVest Group. It harnesses the power of viewing at the program level to provide optimized schedules for individual brands, as well as allocating programs across multiple products. The reach-based, multi-brand optimization and corporate allocation include inventory management and the ability to routinely include qualitative as well as quantitative variables.*

Other Initiatives

DTVAnswers.com

An Initiative of the National Association of Broadcasters

Additional Efforts

Despite the comprehensive nature of this multi-platform campaign, the value of this effort is a very conservative estimate, given that many elements that will be utilized to reach consumers were not included in the impression and value quantification. The value of this multifaceted television campaign does not even take into account the broad reach of other platforms that television broadcasters will utilize to reach all consumers with information about the transition to digital television.

Local News Coverage

Not included in the campaign valuations is the invaluable reach of local news programming. Local television news teams throughout the country will be covering the transition to digital as part of their consumer awareness efforts.

Utilizing Content

Broadcasters will be working with their network and syndication partners to include messages about the digital transition in story lines and content of popular television shows.

Radio

Radio broadcasters will also join the effort to educate America's consumers about the transition to digital television. NAB will supply stations with DTV Action Spots, as well as scripts for live talent reads. NAB is also providing stations with Web banners and information about the easy steps viewers can take to upgrade to digital.

College broadcasters

Broadcasters will be working with their counterparts at college television and radio stations to ensure messages about the mandatory upgrade to digital reaches all audiences.

Outdoor Media

NAB will harness the power of outdoor media by working closely with CBS, Clear Channel and other outdoor media providers to reach consumers with information about the transition and drive them to *www.dtvanswers.com* for additional information.

Addendum of Definitions

DTVAnswers.com

An initiative of the National Association of Broadcasters

Campaign Elements

DTV Action Spots: A combination of 10, 15 and 30 second spots running across all dayparts in network, local station and syndication programming encouraging television viewers to take action to prepare for the transition to digital television. Available in English and Spanish.

Crawls, snipes and/or newstickers: DTV messages running across programming on local stations across non-prime dayparts.

30-Minute Educational Programs: NAB-produced educational program on preparing for the DTV transition. Available in English and Spanish to run by stations in selected dayparts.

100-Day Countdown: Local station graphic and/or mention in various news and other programs reminding viewers of the number of days left until the switch to digital on February 17, 2009. *(To begin 100 days prior to the switch.)*

Newspaper print and online coverage: NAB's DTV transition team includes a media relations director and a public relations firm identifying and working with print reporters across the country to promote the DTV transition. Estimates based on newspaper circulation, Web site analytics and CPM estimates.

Road Show "Trekker": NAB's two giant televisions on wheels that will tour the country visiting 600 locations in 200 markets from November 2007 through the transition date. Trekker staff will be on hand to distribute information about the switch to digital television.

Speakers Bureau: NAB's comprehensive speakers bureau, made up of volunteers from the broadcast industry (station management, on-air talent and others) committed to giving presentations to local civic groups and others interesting in learning about the DTV transition. Impressions based on target of 8,000 speaking engagements nationwide expected to reach one million consumers.

Online Banner Ads: NAB has made available online Web banner ads to direct visitors to the comprehensive site – *www.dtvanswers.com* – to prepare for the transition to digital. Estimates based on Web analytics and exposure on local station sites.

Measurement Terms [1]

Gross 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.

Reach: The number of unduplicated persons or households included in the audience of a station or a commercial campaign over some specified period. Sometimes expressed as a percentage of the market population.

Frequency: In advertising, the average number of times that an individual is exposed to a particular advertising message.

[1] Webster, James G., Phalen, Patricia F. & Lichty, Lawrence W. (2000). Ratings Analysis: The Theory and Practice of Audience Research (2nd ed.) Mahwah, NJ: Lawrence Erlbaum Associates.

DTV Transition Coalition Members	
ORGANIZATION	**City/State/Zip**
AARP	Washington, DC 20049
Advanced Television Systems Committee	Washington, DC 20006
Affinity Marketing	Ft. Wayne, IN 46804
Alabama Broadcasters Association	Hoover, AL 35226
Alaska Broadcasters Association	Anchorage, AK 99503
Alliance for Public Technology	Washington, DC 20006
Alliance for Rural Television (ART)	Washington, DC 20036
American Association of People with Disabilities (AAPD)	Washington, DC 20006
American Cable Association (ACA)	Brisbane, CA 94005
American Legislative Exchange Council (ALEC)	Washington, DC 20005
American Library Association (ALA)	Washington, DC 20009
Archway Marketing Services	Rogers, MN 55374
Arizona - New Mexico Cable Communications Association	
Arizona Broadcasters Association	Phoenix, AZ 85008
Arkansas Broadcasters Association	Little Rock, AR 72212
Asian American Justice Center	Washington DC, 20036
Association for Maximum Service Television, Inc. (MSTV)	Washington, DC 20016
Association of Cable Communicators	Washington, DC 20001
Association of Public Television Stations (APTS)	Washington, DC 20001
Audio Quest	
Bay Creek Communications	Cape Charles, VA 23310
Best Buy	Washington, DC 20003
Black Leadership Forum Inc.	Washington, DC 20006
Broadband Cable Association of Pennsylvania (BCAP)	Harrisburg, PA 17101
Broadcast Education Association	Washington, DC 20036
Broadband Solutions and Testing, Inc	Elmhurst, IL 60126
Broadcom	Irvine, CA 92617
Cable and Telecommunications Association for Marketing (CTAM)	Alexandria, VA 22314
Cable Telecommunications Association of New York, Inc.	Albany, New York 12207
Cable Television Association of Georgia	Atlanta, GA 30328
California Broadcasters Association	Sacramento, CA 95814
Call For Action	Bethesda, MD 20843
Care2	Washington, DC 20005
CENTRIS	Columbia, MD 21044
Cision	Chicago, IL 60647
Circuit City	Richmond, VA 23233
Cisco Systems, Inc.	Washington, DC 20004
CNET	Cambridge, MA 02142
Colorado Broadcasters Association	Breckenridge, CO 80424
Communications Workers of America	
Community Broadcasters Association	Marietta, GA 30066
Congressional Black Caucus	Washington, DC 20515

Congressional Hispanic Caucus	Washington, DC 20001
Connecticut Broadcasters Association	Willimantic, CT 06226
Consumer Action	San Francisco, CA 94105
Consumer Electronic Retailers Coalition (CERC)	Washington, DC 20006
Consumer Electronics Association (CEA)	Arlington, VA 22202
Consumers for Competitive Choice	Greenwood, IN 46143
Convertmy.tv	Fairview, OR 97024
Corporation for National and Community Serviece	Washington, DC 20525
Corporation for Public Broadcasting	Washington, DC 20004
Councilmember Mary Cheh's Office	Washington, DC
Cox Communications	Glendale, AZ 85304
Crosby Volmer International	Washington, D.C. 20036
Custom Electronic Design & Installation Association (CEDIA)	Indianapolis, IN 46268
DIRECTV	Washington, DC 20001
Disaboom	Greenwoood, CO 80111
Disney	Washington, DC 20036
District of Columbia Office of Cable Television	Washington, DC
EchoStar Satellite LLC	
Edison Group	Atlanta, GA 30309
Effros Communications	Clifton, VA 20124
Electronic Industries Alliance (EIA)	Arlington, VA 22201
Entertainment Industries Council, Inc. (EIC)	Reston, VA 20190
Entertainment Publicists Professional Society	Santa Monica, CA 90403
Esperanza	Philadelphia, PA
Family, Career and Community Leaders of America, Inc. (FCCLA)	Reston, VA 20191
Federal Citizens Information Center	Cedar Rapids, IA 52403-7000
Federal Communications Commission	Washington, DC 20554
Florida Association of Broadcasters	Tallahassee, FL 32301
Georgia Association of Broadcasters	Atlanta, GA 30350
Goodwill Industries International	Rockville, MD 20855
Greater New Orleans Broadcasters Association (GNOBA)	Metairie, LA 70002
Hawaii Association of Broadcasters	Honolulu, HI 96817
Heat Surge, LLC	Canton, OH 44709
High Tech DTV Coalition	Washington, DC 20005
Home Theater Specialists of America (HTSA)	Chester Springs, PA 19425
Homes.org	Fort Lauderdale, FL 33309
IBM	Washington, DC 20005
Idaho State Broadcasters Association	Boise, ID 83702-4741
Illinois Broadcasters Association	Carterville, IL 62918
Indiana Broadcasters Association	Indianapolis, IN 46280
Information Technology Industry Council (ITIC)	Washington, DC 20005
Institute of Real Estate Management	
Iowa Broadcasters Association	Des Moines, IA 50325
Iowa Cable & Telecommunications Association, Inc.	Clive, IA 50325
Isis Video and Editing Services	
KA6UTC	Florence, OR 97439
Kansas Association of Broadcasters	Topeka, KS 66611

KCET	Los Angeles, CA 90027
Kentucky Broadcasters Association	Frankfort, KY 40601
KGTV	
Kinsella/Novak Communications, LLC	Washington, DC 20037
K Mart	Hoffman Estates, IL 60179
KTSF	San Francisco, CA 94105
Latinos in Information Sciences and Technology Association	Decatur, GA 30034
Latino Literacy Now	
Leadership Conference on Civil Rights (LCCR)	Washington, DC 20006
League of United Latin American Citizens	Washington, DC 20036
LG Electronics	Washington, DC 20006
Louisiana Association of Broadcasters	Baton Rouge, LA 70801
Louisiana Cable & Telecommunications Association	Baton Rouge, LA 70802
Maine Association of Broadcasters	Augusta, ME 04330
Maryland/D.C./Delaware Broadcasters Association	Baltimore, MA 21208
Massachusetts Broadcasters Association	Manchester, NH 03104
Meals on Wheels Association of America (MOWAA)	Alexandria, VA 22314
Media Freedom Project	
MediaTides LLC	Highlands Ranch, CO 80130
Mexican American Opportunity Foundation	Montebello, CA 90640
Michigan Association of Broadcasters	Lansing, MI
Microtune	Plano, TX
Minnesota Broadcasters Association	Minneapolis, MN 55416
Minority Media Telecommunications Council	Washington, DC 20010
Mississippi Association of Broadcasters	Ridgeland, MS 39157
Missouri Broadcasters Association	Jefferson City, MO 65109
Mitsubishi Digital Electronics	Irvine, CA 92618
Mobile Media Enterprises	
Montana Broadcasters Association	Bonner, MT 59823
NAACP	Baltimore, MD 21215
National Alliance of State Broadcast Associations (NASBA)	Chesapeake, VA 23320
National Asian Pacific Center on Aging	Seattle, WA 98101
National Association of Area Agencies on Aging	Washington, DC 20036
National Association of Black Journalists (NABJ)	Norfolk, VA 23510
National Association of Black Owned Journalists	Washington, DC 20004
National Association of Broadcasters (NAB)	Washington, DC 20036
National Association of Consumer Agency Administrators (NACAA)	Brentwood, TN 37203
National Association of Counties (NACo)	Washington, DC 20001
National Association of Hispanic Journalists	Washington, DC 20045
National Association of Latino Elected Officials	Washington, DC 20003
National Association of Latino Independent Producers	Santa Monica, CA 90406
National Association of Manufacturers (NAM)	Washington, DC 20004
National Association of Neighborhoods	Washington, DC 20004-3024
National Association of Regulatory Utility Commissioners	Washington, DC 20005
National Association of Residential Property Managers (NARPM)	Healdsburg, CA 95448

National Association of Telecommunications and Advisors (NATOA)	Alexandria, VA 22314
National Black Church Initiative	Washington, DC 20035
National Cable & Telecommunications Association (NCTA)	Washington, DC 20001
National Coalition of Black Civic Participation	Washington, DC 20036
National Consumer's League	Washington, DC 20036
National Consumer Voice for Quality Long-Term Care (NCCNHR)	Washington, DC 20036
National Council of La Raza	Washington, DC 20036
National Education Association	Washington, DC 20036
National Fair Housing Alliance	Washington, DC 20005
National Grange	Washington, DC 20006
National Grocers Association (NGA)	Arlington, VA 22201
National Hispanic Media Coalition	Las Angeles, California 90017
National Newspaper Publishers Association News Service	Washington, DC 20010
National Organization of Black County Officials	Washington, DC 20005
National Organization for Youth Safety	Gainesville, VA 20155
National Religious Broadcasters (NRB)	Washington, DC 20002
National Urban League (NUL)	Washington, DC 20036
Native American Journalists Association	
Navigant Consulting, Inc.	
National Council on Aging	Washington, DC 20036
Nebraska Broadcasters Association	Omaha, NE 68154
Nevada Broadcasters Association	Vegas, NV 89119
New Hampshire Association of Broadcasters	Manchester, NH 03104
New Jersey Broadcasters Association	Monroe Township, NJ 08831
New Mexico Broadcasters Association	Albuquerque, NM 87110
New Tang Dynasty Television	New York, NY
New York State Broadcasters Association	Albany, NY 12203
Nielsen Company	New York, NY 10003
North American Retail Dealers Association (NARDA)	Glenview, IL 20025
North Carolina Association of Broadcasters	Raleigh, NC 27602
North Dakota Broadcasters Association	Bismark, ND 58502
Northern Virginia Resource Center for Deaf and Hard of Hearing Persons	
Ohio Association of Broadcasters	Columbus, OH 43215
Ohio Cable Telecommunications Association (Stoddard)	Columbus, OH
Oklahoma Association of Broadcasters	Oklahoma City, OK 73116
Oregon Association of Broadcasters	Porland, OR 97223
Panasonic Corporation of North America	Washington DC, 20036
PCIA -- The Wireless Infrastructure Association	Alexandria, VA 22314
Pennsylvania Association of Broadcasters	Hummelstown, PA 17036
Philips Consumer Electronics	Atlanta, GA 30346
Piedmont Triad Council of Governments	Greensboro, NC 27407
Plasma Display Coalition	Wyckoff, NJ
Public Broadcasting Service (PBS)	Arlington, VA 22202
Public Cable Television Authority	Fountain Valley, CA 92708
Qualcomm	Washington, DC 20006

RADD	Studio City, CA 91604
RadioShack	Fort Worth, Texas 76179
Rainbow PUSH Coalition	Washington, DC 20005
RCA/Audio Video	
Retail Industry Leaders Association	Arlington, VA 22209
Retirement Living TV	Columbia, MD 21045
Rhode Island Broadcasters Association	Cranston, RI 02920
Rural Coalition	Washington, DC 2005
Samsung Electronics	Washington, DC 20036
Sanyo Fisher	Chatsworth, CA 91311
Sanyo Manuracturing Corporation	Forrest City, AR 72335
Satellite Broadcasting and Communications Association (SBCA)	Washington, DC 20036
Sears	Hoffman Estates, IL 60179
Signals Unlimited	
Society of Motion Picture & Television Engineers	
South Carolina Broadcasters Association	Columbia, SC 29212
South Dakota Broadcasters Association	Pierre, SD 57501
Southern Growth Policies Board	
Special Olympics	Washington, DC 20036
Target	Minneapolis, MN 55403
Telecommunications Industry Association (TIA)	Arlington, VA 22201-3834
Tennessee Association of Broadcasters	Nashville TN 37203
Terrestrial Digital	
Texas Association of Broadcasters	Austin, TX 78701
Texas Cable & Telecommunications Association	Austin, TX 78701
Texas Instruments	Washington, DC 20004
Texas Metro Data & Marketing	Witchita Falls, TX 76305
THAT Corp.	Milford, MA 01757
Thomson	
TitanTV Media	Cedar Rapids, IA 52403-7000
U.S. Chamber of Commerce	Washington, DC 20062
United Front Media	Los Angeles CA 90068
Universal Remote Control	Riderwood, MD 21139
Utah Broadcasters Association	Salt Lake City, Utah 84115
Verizon	Washington, D.C. 20005
Vermont Association of Broadcasters	St. Johnsbury, VT 05819
Virginia Association of Broadcasters	Charlottesville, VA 22911-8835
Voices of September 11th	New Canaan, CT 06840
Wal-Mart	Washington, DC 20004
Washington State Association of Broadcasters	Olympia, WA 98501
Washington Urban League	Washington, DC 20009
WBAL	Baltimore, MD 21211
Wineguard Company	Burlington, IA 52803
Wisconsin Broadcasters Association	Madison, WI 53703.
Wisconsin Cable Communications Association	Madison, WI 53703
WLMB TV40	Washington, DC 20016
WUSA	Washington, DC
Wyoming Association of Broadcasters	Cheyenne, WY 82003
Zenith Electronics LLC	Washington, DC 20006

THE DTV TRANSITION AND SMALL BUSINESSES; SMALL FIRMS CONTRIBUTING TO A BIG CHANGE?

Testimony of
RONALD J. BRUNO
PRESIDENT
COMMUNITY BROADCASTERS ASSOCIATION (CBA)

Before the Subcommittee on Contracting and Technology of the Committee on Small Business of the U.S. House of Representatives

May 7, 2008

Mr. Chairman and Members of the Subcommittee, my name is Ronald J. Bruno. I am President of the Community Broadcasters Association (CBA), the trade association of the nation's Class A and low power television stations (LPTV). I am also the President and an owner of Bruno-Goodworth Network, operator of several Class A-eligible and LPTV stations in Western Pennsylvania, Northeastern Ohio, and nearby West Virginia. I thank you for the opportunity to make this statement, because I want emphasize how actively the Class A/LPTV industry supports the transition to digital television broadcasting. Despite our support, however, Efforts of both the government and private sector are headed toward a crushing impact on Class A and LPTV stations, **nearly all of which are owned and operated by small businesses**. I ask this Subcommittee to understand this impending disgrace and to act to help find a remedy.

Foremost, it is critical to note that only the nation's full power television stations are subject to the February 17, 2009, deadline to transition to digital operation. Full power stations represent only about 20% of the nation's TV transmitters. Over 7,200 transmitters are operated by Class A, LPTV, and TV Translator stations, and the vast majority of those stations will continue analog service to the public after next February 17th. This leads to a serious problem taking place with the government's and industry's educational efforts about the transition.

While the National Telecommunications and Information Administration's (NTIA website has a page about Class A/LPTV viewing, before you get to that page, you must pass through a page that says "286 days to *end of analog broadcasts*."[1] While the FCC has published an information sheet about Class A and LPTV broadcasts, its home page says "*DTV Transition Deadline* February 17, 2009." The National Association of

[1] https://www.dtv2009.gov/.

Broadcasters has established a website called "LPTVanswers.com," it is distributing public service announcements that talk about the *end of analog broadcasting* and "*your TV set won't work*" after February 17, 2009 without a converter box.[2] In fact, you will be hard pressed to find any wide spread communication about this transition, save the CBA's website at www.keepuson.org, that has factual information relating to the continued analogue broadcasting of Class A and LPTV. It is impossible for our industry, comprised of the small, community broadcasters, to fight the misinformation campaign being waged, often times using tax payer dollars. And while we have made these concerns heard to the Congress, the NTIA and FCC, our community voice has fallen on deaf ears, and the misinformation continues to be spread without regard to small business broadcasters.

To make the matter worse, Congress provided funds to subsidize the purchase of converter boxes, so that the public can view digital signals on old analog TV receivers. However, NTIA established the converter box program, it refused to allow the inclusion of a simple analog tuner in the converter boxes, on the ground that it was a forbidden "feature or function," even though it approved boxes include parental controls, captioning, favorite program selection, and other features, and even though it not only permitted but required parental controls and captioning to comply with other laws. It ignored the All Channel Receiver Law of 1962 (47 USC Sec. 303(s)), which the FCC has consistently interpreted over the years to require all TV receiving devices (which would include converter boxes) to be capable of receiving all stations broadcasting in all formats. When CBA asked the FCC to enforce the law, the FCC fell silent, which is why the CBA has been forced to seek judicial relief.

While NTIA permits converter boxes to pass through analog signals without being able to tune to individual channels, as of May 5, 2008, only 14 out of 82 converter box models approved by NTIA for the coupon subsidy have the passive analog pass-through feature. **But none of those boxes can be purchased today**. CBA's officers search several times a week for analog pass-through boxes, so that these models can be promoted on CBA's website. They are simply not to be had, either in retail stores or on the Internet. Some of these models are listed, but they are uniformly not available yet or sold out.

Every box without analog pass-through that is installed by a consumer acts as a complete barrier to viewing analog Class A and LPTV signals. With only about 13% of households not wired to cable or satellite television systems, the universe of over-the-air viewers is small enough to begin with and that number is dwindling with each converter box sold. **To be clear, every converter box that is hooked up to a TV set today removes a TV set from the already small potential universe of viewers for small-business TV broadcasters.** It is a slowly tightening noose around the neck of small businesses, and this industry is being destroyed.

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[2] CBA has viewed some of these announcements that superimpose a comment about LPTV in small print that disappears faster than the mandatory disclosure of credit terms disclosure in a fast-talking car dealer's advertisement.

While the policy players to this point have effectively ignored the calls from our small business owners, let me shed some light for the Committee as to the ramifications of this industry's demise. First, Class A and Class A Qualified stations are the only stations mandated by law to provide locally produced programming. Long before "localism" was a buzz word with the consolidated media groups that pay lip service to the concept, our industry was performing this valuable service. Whether it was alternative language programming, religious services for homebound viewers, high school and other local sports, political debates or the local School Board meeting, our industry has serviced the underserved with pride and distinction. This service dies with our industry, and if you believe, even for a second, that the full power stations or cable are willing to commit to local programming requirements, I encourage you to check the testimony from countless House Energy and Commerce Committee hearings. You will find definitive "no" answers to such questions for these industries.

The financial impact in each one of your Congressional Districts will also be significant. Our stations number 2,700 nationally and we employ tens of thousands of people. These people live in your communities, shop at your stores, eat at your restaurants, and pay taxes in your school district. These are good paying jobs, with health care and retirement benefits. Through no fault of their own, these people will be put out of work if something is not done to help this industry. While our industry has pushed several proposals that would have prevented this situation from ever occurring, we are at a point now where immediate help is necessary to maintain this industry, and therefore I make the following proposal to the Committee for its consideration.

The total cost to convert a station to digital operation is significant. However, conversion of just the transmission facilities, which are the key components, can be done for only $150,000 per station. In other words, $150,000 will undo the converter box debacle, because it will once again allow viewers to choose *any* TV station they want to watch, and it will also bring the spectrum efficiency of digital operation to the nation's TV transmitters that so far have been left out.

. Last month, $19.6 billion were raised in the television spectrum auction. The budgeted prediction was only $10 billion, which means that there is a $9.6 billion surplus from this auction.

I respectfully request that this Committee initiate a grant program administered through the Small Business Administration to provide a grant of $150,000 to each Class A and LPTV station that is eligible and applies, so that our industry can quickly move to digital operation. This money will not be taxpayer dollars but rather the excess auction money coming from the private sector auction. There are examples of this kind of program in law, and I will be happy to work with Members of the Committee to best develop this proposed program.

Keep in mind that our industry did not ask to be put in this situation – we were put into this quagmire by the incredibly short-sighted neglect of NTIA and the refusal of the

FCC to act to enforce the law and its own regulations governing TV tuners. The simple and sound solution of converting all stations to digital operation quickly will surely further the efficiencies gained by digital operation, preserve jobs and foster the creation of new jobs, keep small businesses alive, and promote the cause of localism, all without disrupting the continued distribution converter boxes, defective and illegal though they be.

If Congress does not act, small business television broadcasters will be threatened with bankruptcy or loan defaults, contributing to the economic damage the country is now suffering started by the sub-prime mortgage problem.

The clock is ticking away quickly.

I thank the Subcommittee for its attention and look forward to working with you on and your staff to save small business broadcasters and the jobs and programming they provide to the public.

Respectfully submitted,

Ronald J. Bruno, President
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