



David A. Paterson
Governor

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
CONSUMER PROTECTION BOARD

Mindy A. Bockstein
Chairperson and Executive Director

June 9, 2008

National Telecommunications and Information Administration
Office of the Chief Counsel – Milton Brown
1401 Constitution Avenue
Room 4713
Washington, D.C. 20230

Re: *The Household Eligibility and Application Process of the Coupon Program for Individuals Residing in Nursing Homes and Households that Utilize Post Office Boxes* – Notice of Proposed Rulemaking, Docket Number: 080324461-8462-01

Dear Mr. Brown:

As New York State's top consumer watchdog, the New York State Consumer Protection Board (CPB) is involved in a wide array of issues. The CPB conducts consumer investigations, research and analysis; develops legislation; consumer education programs and materials; responds to individual complaints by working to settle disputes through voluntary agreements; and, represents the interests of consumers before the New York State Public Service Commission (PSC) and other State and federal agencies.

The CPB has taken an active role in increasing consumer awareness about the Digital TV (DTV) transition. The CPB has assembled English and Spanish-language tips that are posted on our website and are used during outreach presentations to assist consumers in their transition from analog to digital broadcasting. We have collaborated with other State agencies and public interest groups in advancing this important message to the consumers of New York State. The CPB also submitted comments to the Federal Communications Commission (FCC) calling for increased education and outreach efforts by the FCC and the industry to ensure the message is reaching all consumers including those in ethnic and rural communities, seniors and low-income customers.

The changes proposed by the National Telecommunications and Information Administration (NTIA) to the Digital-to-Analog Converter Box Coupon Program (Coupon Program) on which you seek comment would waive the "eligible household" and application requirements for individuals residing in nursing homes or other senior-care facilities. These changes would also permit an otherwise eligible household utilizing a post office box for mail receipt to apply for and receive coupons for a digital-to-analog converter box. The CPB welcomes the opportunity to comment on these issues.



The CPB commends the NTIA for recognizing that our country's seniors, particularly those residing in nursing homes and other senior care facilities, account for a large portion of the consumers who rely on free over-the-air television and are one of the most vulnerable communities affected by the DTV Transition. Under the current eligibility requirements of the Coupon Program, seniors residing in nursing homes or senior-care facilities applying for coupons cannot participate in the program. It should be the goal of the FCC and NTIA to reach all consumers who may need a digital-to-analog converter box to permit them to continue to receive free over-the-air (OTA) broadcast programming and avoid going "dark" when the DTV transition takes place in February 2009. The CPB strongly supports NTIA's proposed change to waive the current eligibility requirements and permit seniors residing in these facilities the opportunity to receive one coupon to offset their cost of a converter box.

Further, with respect to the administration of the Coupon Program for nursing home residents, the proposed rules would require (i) an eligible individual residing in a nursing home, (ii) a person designated to act on behalf of a nursing home resident, and (iii) an administrator of a nursing home or senior-care facility, to apply for a coupon with an application that contains, among other things, the eligible individual's Social Security number. As justification, the proposed rules state that the Social Security number in connection with birth date will provide an identifier which would not be subject to fraud. The proposed rules also state that the information collected in the application process, including the Social Security numbers, will "be collected and maintained in a manner meeting the highest level of security required for personally identifiable information...."

The CPB disagrees with the requirement that applicants provide their full Social Security number. First, the NTIA's justification that the Social Security number is a unique identifier is incorrect. Identity thieves have gained access to many individuals' Social Security numbers; they are for sale over the Internet. Criminals desiring to commit identity theft are able to purchase them to open new accounts, take over existing accounts, establish work histories, and set up utility service, to list just a few objectives of identity thieves. Often, the result of victimization is the loss of finances from, for example, a drained bank account. Victims of identity theft often take months or years to reclaim their good name and credit, and many times financial losses suffered in the theft are never recovered.

Moreover, while the NTIA provides assurances that information collected will be secure, there is no guarantee that any data stored digitally or in paper format will not be subject to a security breach and fall into the hands of identity thieves. Data can be breached in many ways: by rogue employees, hacking, misdirected mailings, loss or theft of mobile equipment such as laptops, travel drives, etc.

Coupon applicants -- seniors in nursing homes -- are a vulnerable segment of the population. To subject them to potential identity theft through increased usage or exposure of their Social Security numbers would raise the likelihood that they could be victimized. This could result in a chilling effect for seniors who are considering making



coupon applications. In light of our concerns in this area, the CPB suggests that the NTIA use another identifier, or at the very least consider using a portion of the Social Security number.

Similar to residents of nursing home and senior-care facilities, consumers submitting an application for coupons who receive their mail via a post office box cannot currently participate in the Coupon Program. Again, the CPB commends the NTIA for recognizing, through their appeals process, that many of the applicants who have been denied have sound reasons for receiving their mail at a post office box rather than at their home. One such reason is the consumer's concern about the risk of identity theft as a result of mail being stolen at their home. Victims of domestic violence and stalking also may opt to receive their mail at post office boxes. The CPB asserts that all consumers who currently receive OTA television programming should have the opportunity to receive a coupon to limit their cost when obtaining a converter box. The CPB understands that the NTIA was concerned about possible fraud when it developed the current Coupon Program regulations but its proposed modification requesting further proof of physical residence of a post office box applicant should limit if not completely eliminate any potential fraud when distributing these coupons. It is not overly burdensome for an applicant to provide a valid driver's license, utility bill, a lease or rental agreement or any other such documentation that proves their physical address in order to take advantage of the Coupon Program.

The CPB recommends that the NTIA continue to consider further revisions to the rules of its Coupon Program to ensure similar vulnerable segments of the population receive free, over-the-air television. Should these revisions be finalized, continued publicity about the changes is recommended in order to reach wide segments of the population.

The Coupon Program administered by the NTIA is an essential aspect of the DTV transition. Ensuring that all eligible consumers are afforded the opportunity to receive a coupon is paramount so that consumers do not incur unnecessary costs. The CPB looks forward to continuing to work with the NTIA, as a State partner, towards this goal.

Sincerely,



Mindy A. Bockstein
Chairperson and Executive Director

