

Consumer Electronics Retailers Coalition



November 20, 2006

Mr. Milton Brown
Office of the Chief Counsel
US Department of Commerce / NTIA
Herbert C. Hoover Building
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Re: Notice of Ex Parte Presentation, Docket Number 060512129-6129-01

Dear Mr. Brown:

On November 15, 2006, members of the Consumer Electronics Retailers Coalition (CERC), and their counsel, met with NTIA officials. Present for CERC and its members were:

- a) Marc Pearl, Executive Director, CERC
- b) Jennifer Blum, Drinker Biddle and Reath, for RadioShack
- c) Arnold Grothues, Vice President, Government Affairs, RadioShack
- d) W. Stephen Cannon, Constantine Cannon, for CERC and Circuit City
- e) Mitchell Stoltz, Constantine Cannon, for CERC¹
- f) Emmett O'Keefe, Director, U.S. Federal Public Policy, Amazon.com
- g) Paula Prah, Vice President, Public Affairs, Best Buy

NTIA officials present were:

- a) Anita Wallgren, Program Director, DTV Converter Coupons
- b) Bernadette McGuire-Rivera, Associate Administrator
- c) Milton Brown, Deputy Chief Counsel
- d) David Murray, Senior Advisor
- e) Anthony Wilhelm, Director of Consumer Education and Public Information

The purpose of the meeting was to discuss the subjects raised in NTIA's Notice of Proposed Rulemaking in Docket Number 060512129-6129-01, Request for Comment and Notice of Proposed Rules to Implement and Administer a Coupon Program for Digital-to-Analog

¹ Bar admission pending

Converter Boxes, and issues raised in CERC's and CERC members' official comments in that docket. The CERC members expressed the views described below.

Regarding the certification of participant retailers, CERC presented a number of concepts:

- Members believe that NTIA should require evidence that a candidate retailer has a legitimate business license issued in the U.S.
- Retailers should also be required to demonstrate some level of experience with electronic gift cards, coupons, or other like transactions that use a verification system.
- For consumer education purposes, and because the converter box requires installation, NTIA may want to require that retailers have some level of experience with consumer electronics retail, and have either the experience or capability, in person or on-line, to educate customers on how to install and use the box, and on the terms of the coupon.
- In addition, NTIA should commit to holding the records of specific coupon transactions private to the extent allowed by law, as such records would represent sales data in which retailers have a strong business interest in confidentiality and which most retailers hold confidential.
- CERC members stated that it is very important that NTIA *not* impose a requirement that participating retailers maintain inventory of converter boxes. Retailers simply have no way to predict what the demand for or supply of converter boxes will be at any given point in the program.

There was also a discussion of the nature of CERC's membership and a more particular discussion about the operations of on-line retailers and the projected mechanics of any such business's participation in a coupon program.

Regarding the selection of a vendor for the program, CERC members emphasized the benefits of using a vendor with experience in working with retailers, particularly retailers that regularly sell consumer electronics (as opposed to grocery stores, drug stores, etc. These vendors understand the threats with respect to waste, fraud, and abuse that arise in a retail environment, are likely already to have a familiarity with commonly used systems, and can therefore make fraud prevention less expensive and more successful, and thus implement the program with less cost.

Mr. Milton Brown
November 20, 2006
Page 3

CERC reiterated its support for an electronic coupon card. There was detailed discussion of various electronic methods that could be used in the program. With regard to cost, CERC emphasized that different retailers use different payment systems as determined by their individual needs, so that the need for new software, equipment, and other expenses necessary to accept converter box coupons will be different for each retailer. The cost to the retailers of implementing the system is likely to be quite high. Unlike the permanent nature and breadth of products sold under the food stamp or WIC program, the 18-month lifetime of the coupon program, for a single product line out of thousands, is insufficient to expect a retailer to amortize, in the ordinary course of business, the cost of software and/or hardware installation and employee training in such a specialized coupon system. Therefore, CERC reemphasized that equitably, and to incentivize participation, the cost of participation should be factored into the program, perhaps through the vendor contract, rather than left to be borne by participating retailers. The CERC participants stated the belief that there appears to be precedence for such an approach in other government-initiated programs.

CERC members emphasized that the NTIA should provide a reasonable timeline for implementation of the program. NTIA should select a vendor as soon as possible – ideally by the end of the first quarter of 2007. Because retailers characteristically begin preparing for the 2007-08 holiday season in mid-2007, it seems essential for participating retailers to begin working with the vendor at least by that time – otherwise, the rigors of business focus on the 2007 holiday sales season could make it impossible for a retailer also to be ready to participate in the coupon program by January, 2008.

Finally, CERC requested that it be consulted – either formally or informally – throughout the ongoing implementation process in order that the details surrounding the program be worked out by those who have to operationalize it. CERC offered to be as supportive as possible to the NTIA team.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Marc A. Pearl', with a stylized flourish at the end.

Marc A. Pearl
Executive Director