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Before the  
NATIONAL TELECOMMUNICATIONS AND  
INFORMATION ADMINISTRATION  
Washington, DC 20230

In the Matter of )  
 )  
Implementation and Administration of a ) Docket No. 060512129-6129-01  
Coupon Program for Digital-to-Analog )  
Converter Boxes )  
 )

**COMMENTS OF SUNBELT MULTIMEDIA CO.**

Sunbelt Multimedia Co. ("Sunbelt"), the licensee of KTLM(TV), Rio Grande City, Texas ("KTLM" or the "Station"), by its attorneys, hereby responds to the above-referenced Notice of Proposed Rulemaking<sup>1</sup> issued by the National Telecommunications and Information Administration ("NTIA").

In the *NPRM*, NTIA seeks comment on its proposed implementation and administration of a coupon program for digital-to-analog converter boxes mandated by Congress in the Digital Television Transition and Public Safety Act of 2005.<sup>2</sup> As a Telemundo affiliate broadcasting from a border community in the Harlingen-Weslaco-Brownsville-McAllen, Texas DMA, the Station not only serves a Spanish-speaking television audience, but operates under unique market conditions that create distinct disincentives for local Spanish-speaking viewers to purchase digital television receivers. In these comments, Sunbelt sets forth the unique obstacles KTLM and other similarly-situated border Stations face in converting their audiences to digital television and urges NTIA to address these obstacles by devoting ample resources to DTV

<sup>1</sup> 71 Fed. Reg. 42067 (July 25, 2006) ("*NPRM*").  
<sup>2</sup> Title III of the Deficit Reduction Act of 2005, Pub. L. 109-171, 120 Stat. 4, 21 (Feb. 8, 2006) (the "*DTV Transition Act*").

education and outreach efforts in connection with the distribution of converter box coupons to Hispanic viewers in our border communities. In support thereof, Sunbelt states as follows.

**I. SPECIAL OUTREACH AND FUNDING FOR HISPANIC VIEWERS IN BORDER COMMUNITIES**

In the *NPRM*, NTIA notes the myriad difficulties involved in identifying those households that rely exclusively on over-the-air analog service,<sup>3</sup> and requests comment on "ways primarily to target those specific households that only receive over-the-air television broadcast signals."<sup>4</sup> Sunbelt submits that Spanish-speaking households comprise a disproportionately large percentage of those households relying exclusively on over-the-air analog television service. Within the Hispanic population itself, viewers in communities along the U.S./Mexico border are particularly at risk for being left behind by the digital transition. As such, NTIA must take Hispanic viewers generally, and particularly those in border areas such as the Rio Grande Valley, into special consideration as NTIA develops rules and guidelines for the converter box coupon program.<sup>5</sup>

**A. Hispanic Viewers' Reliance on Over-the-Air Television**

As numerous parties elsewhere have pointed out, approximately one in three Spanish-language households receive their programming exclusively over-the-air.<sup>6</sup> By way of

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<sup>3</sup> See *NPRM* at 42071 (citing United General Accounting Office, GAO-06-623T, *Digital Broadcast Television Transition: Several Challenges Could Arise in Administering a Subsidy Program for DTV Equipment* (2005) ("*GAO Subsidy Program Report*").

<sup>4</sup> *Id.*

<sup>5</sup> Sunbelt seeks special outreach and funding efforts for its Hispanic viewers who are U.S. citizens or legal resident aliens residing in communities located in its market. Sunbelt does not raise or address the issue of illegal aliens in these Comments.

<sup>6</sup> See, e.g., *Comments of Entravision Holdings, LLC*, Federal Communications Commission MB Docket No. 04-210 (July 12, 2004) ("*Entravision OTA Comments*") at 1-2 (noting only 72% of Hispanic homes subscribe to cable or satellite, as compared to 85% subscription rate among all households); *Comments of Univision Communications Inc.*, Federal Communications Commission MB Docket No. 04-210 (Aug. 11, 2004) ("*Univision OTA*").

comparison, exclusive over-the-air reliance among the population at large falls somewhere between 15 and 20 percent.<sup>7</sup> Moreover, the number of Hispanics relying exclusively upon over-the-air service may be increasing rather than decreasing.<sup>8</sup> Two important factors help explain the high incidence of over-the-air viewership among Hispanics. First, broadcast television historically has been the only substantive source of quality Spanish-language programming, and it remains the best source of such programming today. Second, in sharp contrast to the many other video programming providers in the market, over-the-air television is free, a critical consideration for those with limited incomes.

Nearly 50 percent of Hispanic households exclusively watch Spanish-language programming.<sup>9</sup> While cable and satellite providers have begun to focus on the Hispanic market, until recently their Spanish-language offerings were minimal, giving Latino viewers little incentive to pay for cable or satellite when over-the-air television better served their needs. Today, broadcast networks such as Telemundo continue to provide the highest quality and best variety of Spanish-language programming.

In addition to the superior quality of broadcast programming, it is also a bargain. While the costs of subscription services continue to rise,<sup>10</sup> over-the-air television remains free to the

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*Comments* ') at 8 (noting that 33% of Hispanic households nationwide receive programming solely over-the-air); *Reply Comments of Univision Communications, Inc.*, Federal Communications Commission MB Docket No. 04-210 (Sept. 7, 2004) ("*Univision OTA Reply Comments* ") at 4 (noting that in addition to 33% of Hispanics who receive all their programming over-the-air, another 7%, comprised of DBS subscribers, receive their local programming exclusively over-the-air).

<sup>7</sup> See *NPRM* at 42071 (citing legislative history to the DTV Transition Act, H.R. REP. NO. 109-352, at 201 (2005) (Conf. Rep.), for 14.86% over-the-air statistic, and the *GAO Subsidy Program Report* for 19%).

<sup>8</sup> See *Univision OTA Comments* at 9; *Univision OTA Reply Comments* at 4.

<sup>9</sup> See *Entravision OTA Comments* at 4.

<sup>10</sup> See, e.g., *Annual Assessment of the Status of Competition in the Market for Delivery of Video Programming*, 19 FCC Rcd 1606 (2004) at ¶ 10 (noting high costs of cable television).

public. Given an increasingly expensive video marketplace, the well-documented correlation between over-the-air viewership and lower income households is hardly surprising.<sup>11</sup>

The fact that broadcast television is free together with the traditional role of broadcasters in providing Spanish-language programming go a long way in explaining why Hispanics represent a large, concentrated segment of the remaining over-the-air audience. In view of these considerations, NTIA should focus special attention on Spanish-speaking television viewers as it undertakes its consumer education campaign and implements the digital-to-analog converter box coupon program.

**B. Unique Challenges Facing Border Stations Warrant Extra Outreach and Funding for Hispanic Viewers in Border Communities**

While Hispanic viewers generally will require heightened attention throughout the DTV transition, those Hispanic viewers residing in border communities such as the Rio Grande Valley are a matter of even greater concern. Ensuring that Hispanic households in border communities do not become casualties of the DTV transition constitutes one of the most pressing challenges facing government agencies and private actors responsible for guiding the public through the transition from analog to digital television.

As a matter of public policy, the DTV transition is well underway in the United States. Congress has set February 17, 2009 as the final deadline for the transition to digital television, and the Federal Communications Commission has taken numerous steps to ensure that U.S. broadcasters are preparing to switch from analog to digital operation. The United Mexican States, on the other hand, have applied a much more relaxed timetable to the DTV transition.

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<sup>11</sup> See, e.g., *Comments of The Association of Public Television Stations*, Federal Communications Commission MB Docket No. 04-210 (Aug. 11, 2004) ("*APTS OTA Comment*:" ) at 9.

Mexico only recently set 2013 as the deadline for digital operations. At this time, Sunbelt is not aware of any actions that the Mexican government has taken to require Mexican television stations to operate only in the digital mode. Thus, it is clear that Mexican stations will continue to operate in the analog mode long after U.S. broadcasters have transitioned to digital operations. This disparity will have serious consequences for Spanish-language broadcasters and viewers located in border communities, as Mexican programming will remain available in the analog mode while U.S. programming will only be accessible via digital television sets, digital converters, cable or DBS.<sup>12</sup>

As discussed above, one of the principal reasons that over-the-air viewership remains high among Hispanics is that cable and satellite's Spanish-language offerings are relatively limited, whereas broadcasters typically offer a wide variety of Spanish-language programs. Nowhere is this more evident than in border communities, where the availability of analog signals from U.S. and Mexican stations contributes to exceptionally high over-the-air viewership rates. DMAs covering border towns have some of the highest percentages of over-the-air reliance in the country. In fact, Harlingen-Weslaco-Brownsville-McAllen, Texas – the DMA in which KTML is located – ranks first at 40.4 percent.<sup>13</sup>

Not surprisingly, many of these same areas are home to a large number of low-income households. The counties comprising the Harlingen DMA, for instance, have some of the lowest per

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<sup>12</sup> Section 704 of H.R. 5252, the Advanced Telecommunications and Opportunity Reform-Communications Opportunity, Promotion, and Enhancement Act (as originally approved by the Senate Committee on Commerce, Science and Transportation in S. 2686), recognizing the unique conditions along the border, provides for a further two-year period for border Spanish-language stations to continue analog transmissions after the February 17, 2006 digital transition date. At the present time, the fate of the bill remains uncertain. Even if the bill passes, the efforts of the NTLA will remain indispensable to the digital transition in border communities two years further down the road.

<sup>13</sup> See *APTS OTA Comments* at Appendix A.

capita income levels in the U.S., and KTLM serves some of the poorest minority families in the DMA. The Rio Grande Valley's fragile economy and widespread poverty are well-documented.<sup>14</sup> In this environment, purchases of expensive digital television sets, or even more moderately-priced digital converters, are beyond the means of many of KTLM's viewers, particularly where Mexican and domestic analog television provides viewers with abundant Spanish-language programming.

Given these market conditions, Sunbelt believes that many Hispanic viewers in border towns will simply substitute Mexican stations for U.S. stations in order to continue with analog service rather than migrate to digital television by purchasing new digital receivers or converters.<sup>15</sup> Beyond the detrimental effects of such a situation on the operations of U.S. Spanish-language broadcasters like Sunbelt, it also poses serious problems for border residents and local governments. Border communities face their own unique set of serious issues and concerns, including homeland security, border immigration and extreme weather conditions. For instance, the Rio Grande Valley is particularly susceptible to severe storms and related flooding.<sup>16</sup>

In response to the specific needs of areas like the Rio Grande Valley, U.S. stations such as KTLM provide important news and public affairs programming as well as information on weather and other emergencies, including notices to the visually and hearing-disabled.

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<sup>14</sup> See, e.g., Katherine Boo, *The Churn: Creative Destruction in a Border Town*, *The New Yorker* (March 29, 2004) at 62 (describing the plight of residents and workers in the Rio Grande Valley).

<sup>15</sup> See *Univision OTA Comments* at 11 (noting competition U.S. border stations face from their Mexican counterparts, and that in Laredo and Harlingen markets, nearly half of all prime time viewing goes to Mexican stations).

<sup>16</sup> See, e.g., Cari Hammerstrom, *The Cost of Neglect: Group Says It Can't Prove Strength of Local Levees*, *The Monitor*, Sept. 14, 2006 at A1 (reporting on threat of floods and questionable conditions of levees in Rio Grande Valley).

Significantly, Mexican stations do not provide these same services, not even for matters solely involving Mexico. Such differences will become dire problems when emergencies arise and public safety agencies seek to mobilize Spanish-speaking residents through messages delivered by local television broadcasters.

The continuing presence and appeal of analog service for Spanish-language television viewers in border communities directly undermines the ability of U.S. broadcasters like Sunbelt to insure that such viewers remain an informed part of the public. Without persistent efforts on multiple fronts to inform Spanish-speaking viewers about, and to include them in, the DTV transition, an entire segment of Spanish-language viewers will no longer have access to the news, public affairs and entertainment programming available to the rest of the American people. Such programming amounts to an essential component of our shared public culture, and the virtual foreclosure of this culture to Hispanic residents in border communities is unacceptable. The converter box coupon program represents a crucial tool available to public and private actors determined to prevent this from happening.

Given the importance and difficulty of this issue, Sunbelt submits that market forces or the trickle down effect of a general ad campaign cannot be counted upon to bring digital-to-analog converter boxes to Hispanic households in areas like the Rio Grande Valley. NTIA must ensure the success of the converter box coupon program in these areas by undertaking, along with local broadcasters and other stakeholders, extensive Spanish-language promotional campaigns and conduct specialized outreach programs to encourage local viewing populations to participate in the coupon program and the DTV transition.

Using the successful transition to digital television in Berlin as a model, NTIA, local governments, broadcasters and other stakeholders should essentially inundate Hispanics in



border communities such as the Rio Grande Valley with information on the DTV transition and the converter box coupon program through all available means, including: (1) broadcast spots, local news and current affairs coverage; (2) letters sent to every home in target areas concerning the analog shut-off and the coupon program; (3) leaflets, brochures and newsletters distributed through local retailers; (4) publications and public meetings of local associations and organizations; (5) print, press, radio and outdoor advertising; (6) telephone hotlines; and (7) an Internet website.<sup>17</sup>

Again, while the population as a whole could no doubt benefit from these efforts, it is absolutely critical that special consideration and exclusive funds are dedicated to Hispanics in border communities. Whatever the deficit in the general public's knowledge of the DTV transition, the numerous factors discussed above guarantee that markets on the U.S./Mexico border will prove particularly resistant to the DTV message. Hispanics living in the border communities such as the Rio Grande Valley are accustomed to tuning out the official pronouncements and programs of the mainstream culture. Language differences, income differences and cultural differences will make these viewers harder to reach than average Americans. A financial commitment from the NTIA is necessary to reinforce public and private efforts to assure the full participation of border communities in the DTV transition.

Accordingly, NTIA should reserve funds from (1) the general \$1,500,000,000 in coupon program funds, and (2) the limited \$5,000,000 allocated to consumer education, specifically for Hispanic viewers in border communities. In determining the amount of such funding, Sunbelt urges NTIA to set aside sufficient funds for coupons and specialized education and outreach

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<sup>17</sup> See APTS OTA Comments at 27.

programs for all border communities served by full or low-power Spanish-language broadcast stations.

## II. ELIGIBILITY REQUIREMENTS

With respect to defining eligible households, which the DTV Transition Act does not do, NTIA proposes to adhere to the U.S. Census Bureau's use of the term "household" to mean "all persons who currently occupy a house, apartment, mobile home, group of rooms, or single room that is occupied as separate living quarters and has a separate U.S. postal address."<sup>18</sup> While this definition may appeal to NTIA as a matter of administrative convenience, Sunbelt wishes to note that it does not reflect the way many low-income families actually live in areas like the Rio Grande Valley, and therefore does not accurately capture the population it is meant to, or adequately serve those households most in need.

In Sunbelt's experience, many of KTLN's Spanish-speaking viewers are low-income families that live in a single house with other families because these are the only living arrangements they are able to afford. While such houses may occupy a single address, they are frequently home to multiple families with multiple televisions. Hispanic families housed under such conditions are among those border community viewers most in need of extra outreach and distribution efforts. Accordingly, Sunbelt urges NTIA to carve out a community-based exception to its proposed definition of household to allow multiple families residing at a single address in vulnerable areas, such as the Rio Grande Valley, to each count as a separate household. Alternatively, NTIA could establish a low-income threshold, and a family earning less than the threshold amount could qualify as a household entitled to two coupons, regardless of whether or not that family lives with other families at a single address. While Sunbelt

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<sup>18</sup> *IPRM* at 42068.

supports \$40,000 as a general income ceiling for eligibility, as discussed below, Sunbelt believes the poverty threshold<sup>19</sup> would be an appropriate limit in connection with eligibility for the expanded definition of household.

With regard to NTIA's proposal to restrict eligible households to those that only receive over-the-air television signals using analog-only television receivers, Sunbelt urges NTIA to carve out an exception for any DBS subscribers who only obtain access to local stations through over-the-air analog service.<sup>20</sup> In markets where satellite providers do not provide local-to-local service, satellite subscribers remain as dependent upon over-the-air analog reception to view local broadcast television programming as those viewers who do not subscribe to any pay television service. Accordingly, satellite viewers who do not receive local stations from their satellite provider should be treated in the same manner and subject to the same eligibility requirements as exclusive over-the-air viewers.

With respect to establishing economic-based eligibility criteria for the program,<sup>21</sup> Sunbelt believes that NTIA should err on the side of over-inclusion rather than under-inclusion. A coupon for a converter box could prove indispensable for a number of households with incomes exceeding the designated poverty threshold. Accordingly, Sunbelt believes NTIA should make the coupon available to all households certifying on the application form that they have an annual income of \$40,000 or less. NTIA's funding will be better spent on providing coupons to

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<sup>19</sup> The 2005 poverty threshold is \$19,806 or below. See U.S. Census Bureau's Poverty Threshold for 2005, <http://census.gov/hhes/www/poverty/threshld/thresh05.html>.

<sup>20</sup> See *Univision OTA Reply Comments* at 3.

<sup>21</sup> See *id.*

these additional lower-income households than on efforts strictly to enforce the poverty threshold.<sup>22</sup>

With regard to NTIA's proposal to honor valid coupon requests on a first-come, first-served basis until the money runs out,<sup>23</sup> as noted above, Sunbelt believes NTIA should provide specific set asides for Hispanic viewers in border communities. Public and private efforts to get the word out to Hispanic viewers, particularly in areas like the Rio Grande Valley, face a number of obstacles, including language and cultural differences and comparatively low income levels. Without set asides for this at-risk population, viewers with better access to information, and less actual need for the coupons, may deplete NTIA's limited resources. Accordingly, Sunbelt urges NTIA to set aside specific funds for Hispanic viewers in border communities and to allocate coupons to the border markets based on the number of households meeting the economic eligibility criteria...

If demand for the coupons is lower than expected,<sup>24</sup> Sunbelt suggests that NTIA review demand levels according to various geographic and demographic measures. In areas or among populations where demand is low, NTIA, together with local broadcasters and other stakeholders, should undertake additional educational and outreach efforts. NTIA should devote particular attention to whether predicted demand levels in Hispanic communities are being met. Further, if demand is lower than expected and NTIA has not already implemented an expanded definition of household, it should allow multiple families residing at a single address to each count as a household, based on the community or income criteria discussed above.

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<sup>22</sup> See *GAO Subsidy Program Report* at 16-17 (noting that cost-effectiveness of fraud prevention efforts should be measured and that "systems to mitigate and prevent fraud may be costly and may not be worthwhile, especially if the value of the subsidy is low.")

<sup>23</sup> See *NPRM* at 42068.

<sup>24</sup> See *id.*

### III. MISCELLANEOUS PROPOSALS

Sunbelt supports the use restrictions proposed by NTIA, including the suggested prohibitions on returning a converter box to a retailer for a cash refund or for credit toward the purchase of another item.<sup>25</sup>

With respect to the application process,<sup>26</sup> Sunbelt notes that all application materials must be available in Spanish as well as in English. Also, because Hispanics, particularly in border communities like the Rio Grande Valley, may be accustomed to avoiding official programs involving government-related entities, additional efforts and special care must be taken to familiarize Hispanics with the details of the application process.

Sunbelt generally supports NTIA's proposal to set the coupon's expiration date as three months after the date the coupon is placed in the U.S. mail,<sup>27</sup> but Sunbelt submits that NTIA should allow an additional 10-day grace period to cover any inconsistencies in mail delivery. NTIA also must establish a fair notice system of rights and responsibilities concerning undelivered coupons, late-delivered coupons, expired coupons, and related matters. A certain degree of program error as well as consumer confusion is to be expected, and Sunbelt submits that limited forgiveness provisions with respect to lost and/or expired coupons, including the right revive, are only fair and reasonable.

With respect to the identification of converter boxes,<sup>28</sup> Sunbelt submits that NTIA should provide materials along with the coupons listing approved converter boxes. Again, these materials must be available in Spanish as well as English. Also, multilingual displays should be set up in retail establishments and identifying stickers should be affixed to the boxes themselves.

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<sup>25</sup> See *id.* at 42069.

<sup>26</sup> See *id.*

<sup>27</sup> See *id.*

<sup>28</sup> See *id.* at 42070.

With respect to retailers,<sup>29</sup> Sunbelt notes that NTIA must ensure that retailers serving the Spanish-language audience are sought out and encouraged to participate in the coupon program. Sufficient funds should be allocated to the identification and recruitment of popular retailers in target areas such as border communities.

With respect to installation, Sunbelt submits that the process must be as simple and self-explanatory as possible. That being said, user-friendly instructions must be provided, and they should be multilingual and come with accompanying illustrations. Further, a hotline with multilingual technicians should be available to answer consumer inquiries.

### CONCLUSION

Sunbelt commends NTIA's efforts to address the many difficult issues involved in planning and implementing the digital-to-analog converter box coupon program. Sunbelt generally supports NTIA's proposals, but wishes to emphasize that the success of the program will turn largely on NTIA's success in identifying and reaching those viewers most at risk for getting left behind by the DTV transition. In these comments, Sunbelt has identified Hispanic households as a significant set of such viewers, particularly those residing in border communities such as the Rio Grande Valley. Sunbelt urges NTIA to recognize and address the unique set of factors complicating the transition from analog to digital television in these border markets by undertaking specialized coupon distribution, education and outreach efforts and setting aside specific funds for these purposes. It is only through such targeted efforts on the part of NTIA, local broadcasters and other stakeholders that the participation of Hispanic viewers in the coupon

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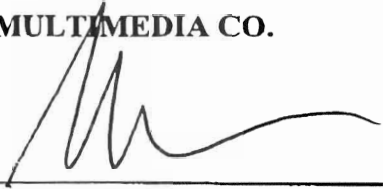
<sup>29</sup> *See id.*

program and the DTV transition will be assured.

Respectfully submitted,

**SUNBELT MULTIMEDIA CO.**

By:



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