

Before the
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION
U. S. DEPARTMENT OF COMMERCE
Washington, DC 20230

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| In the Matter of |) | |
| |) | |
| Implementation and Administration of a |) | Docket No. 060512129-6129-01 |
| Coupon Program for Digital-to-Analog |) | RIN 0660-AA16 |
| Converter Boxes |) | |

To: Office of the Chief Counsel

COMMENTS OF THE COMMUNITY BROADCASTERS ASSOCIATION

1. Introduction. The Community Broadcasters Association (“CBA”) hereby submits these comments in response to the National Telecommunications and Information Administration’s (“NTIA”) Notice of Proposed Rulemaking and Request for Comment (“NPRM”) in the above-captioned proceeding, released July 20, 2006, and published at 71 Fed. Reg. 42067 (July 25, 2006). CBA is the trade association that represents the nation's 589 Class A and 2,157 Low Power Television Stations.¹ There are more Class A and LPTV stations than full power TV stations. These stations operate all over the 50 United States and its territories, providing local service in small communities that cannot sustain a full power television station and providing ethnic and niche formats in larger markets. For example, all of the Washington, D.C., area Spanish language stations but one are Class A or LPTV stations; and the only television station licensed to Trenton, capital of the State of New Jersey is a Class A station. Class A and LPTV stations also have the greatest percentage of minority ownership of any mass medium.

2. Summary. CBA supports most of NTIA’s proposals, including proposals to issue digital-to-analog converter box subsidy coupons to only those households that request them, to

¹ See FCC Public Notice, Broadcast Station Totals as of March, 2006, released May 26, 2006.

limit the use of coupons to the purchase of properly certified converter boxes, and to implement security measures to avoid abuse of the program. However, CBA believes that the proposed consumer eligibility standards are too stringent and that it is critical that eligible converter boxes be designed to pass through any kind of over-the-air broadcast signal, analog or digital, regardless of whether they are turned on or off.

3. Dependence on Over-the-Air Reception. Class A and LPTV have a special interest in over-the-air reception, because the vast majority of them do not have mandatory carriage rights on multi-channel video program distributor (“MVPD”) systems. With respect to cable television, only stations licensed to communities outside the top 160 Metropolitan Statistical Areas, with a population of less than 35,000, and in a county with no full power television station (commercial or noncommercial) are eligible for cable television must-carry rights, and they are subject to further requirements concerning the content of their programming.² No Class A or LPTV station has any carriage rights on any broadcast satellite system, such as DirecTV and Dish Network (EchoStar). Thus these stations depend heavily on over-the-air reception of their signals, much more than full power television stations that have mandatory MVPD carriage rights; so they have the greatest stake of any class of television broadcaster in how converter box subsidies are made available to the public and the functionality built into those boxes.

4. Pass-Through Capability of Converter Boxes. Because of their heavy reliance on over-the-air reception, it is critical to Class A and LPTV stations that subsidized digital converter boxes not interfere with the reception of over-the-air signals of any kind, digital or analog. Thus it is

² See 47 USC Sec. 534(h)(2), which conditions Class A and LPTV cable must-carry rights on a station’s broadcasting programming with unique local informational content, as well as compliance with the children’s programming requirements applicable to full power stations.

important that analog signals pass through a converter box (either actively or passively), so that the box does not act as a gateway that blocks analog reception and does not have to be disconnected to allow reception of analog signals. In this regard, it should be noted that while Class A and LPTV stations are themselves currently engaged in the transition to digital operation,³ they are not subject to the February 17, 2009, end-of-transition deadline applicable to full power stations;⁴ and the FCC has not yet decided on an end-of-transition date for these stations. Thus in the coming years, both analog and digital broadcasting will prevail among Class A and LPTV stations. It is highly important to those stations that converter boxes not block their signal no matter what the format, regardless of whether or not the boxes need to process the signal for it to be viewed on an analog receiver.

5. Multi-Receiver Household Eligibility. Another issue of concern to Class A and LPTV stations is NTIA's proposal to prohibit a subsidy to any household that owns a digital receiver or subscribes to a MVPD service. Class A and LPTV stations often depend on reaching second and third analog receivers in households where only one receiver is connected to a cable or satellite system. These analog receivers will not enjoy the benefit of digital-to-

³ The FCC adopted regulations providing for digital operation by Class A and LPTV stations in *Amendment of Parts 73 and 74 of the Rules To Establish Rules for Digital Low Power Television* (MB Docket No. 03-185), 19 FCC Rcd. 19331 (rel. Sep. 30, 2004). It began accepting applications from stations wishing to convert to digital operation on their analog channel as a substitute for analog operation (known as "flash cut") as soon as the rules adopted in that proceeding were approved by the Office of Management and Budget. Many of those flash cut applications have been granted. During an application "window" between June 19 and June 30, 2006, the FCC accepted applications for companion digital channels by Class A and LPTV licensees that wish to operate separate analog and digital transmitters until the end of the digital transition. A list of 1,463 such applications that are not mutually exclusive with any other applications, and are thus eligible for grant without an auction, was released on August 31, 2006.

⁴ See 47 USC Sec. 309(j)(14), which by its terms applies to only full power television stations.

analog conversion provided by an MVPD system that is connected to only the household's primary receiver, yet access to these analog receivers will remain critical to broadcasters that have no must-carry rights. Moreover, these additional receivers will not necessarily be replaced when the household acquires its first digital receiver.⁵ To exclude such receivers from the converter box subsidy program would make them prematurely obsolete and would thus serve as a negative incentive to households to purchase their first digital receiver. Moreover, as a practical matter, it would reduce multi-receiver households to single-receiver households -- in effect reducing economic progress and access to information and entertainment by American households.

6. Legislative History. The NPRM correctly indicates that “the legislative history provides that the coupon program is intended to help consumers who wish to continue receiving broadcast programming over-the-air using analog only televisions not connected to cable or satellite,”⁶ but the legislative history does not demonstrate an intent to confine the program to households that have only analog over-the-air receivers and have no access to any MVPD or digital reception technology. House Report No. 109-362, cited in the NPRM, states that “[o]nly consumers relying on over-the-air broadcasts should need to participate in the converter-box program.”⁷ The key word is “relying”; and owners of multiple receivers not hooked up to a MVPD system are fully “relying” on over-the-air reception, even if they have

⁵ Receivers on a workshop bench or in a kitchen, or a small receiver that is moved around the house, are often not connected to an MVPD service; yet they are used a substantial amount of time, and many Class A and LPTV stations depend heavily on access to these receivers.

⁶ NPRM at fn. 4.

⁷ H.R. Rep. 109-362 at p. 201.

some limited access to another delivery system. As indicated above, access to these receivers is critical to the survival of Class A and LPTV stations. While the following sentence in the House Report mentions a percentage of television households that rely “exclusively” on over-the-air reception, the Deficit Reduction Act of 2005 also includes Sec. 3008, which provides special funding for digital-to-analog conversion “to facilitate continued service for the viewers of low power television stations over their analog TVs”⁸ and clearly evidences Congressional intent that this service not be blocked or impaired. NTIA need not and should not implement the converter box program in a manner that defeats this explicit intent of the legislature by denying converter box subsidies to households that rely on analog receivers to watch digital Class A and LPTV stations over-the-air, even if they have another means to view digital full power stations.

7. Suggested Approach. CBA suggests that applicants for subsidy coupons be required to sign a certification indicating that they “own and regularly use an analog television receiver that (a) is operated at a location in their residence where there is no access to cable television or broadcast satellite service and (b) has an input that allows the use of an external antenna and is not limited to operation with a built-in antenna. If NTIA is concerned that the demand for coupons will exceed the supply under this test, then CBA suggests that any further limitations be based on an applicant’s income, so that the subsidy will be available to those who need it most. Excluding applicants based on high income is more appropriate than excluding receivers that in practice have no MVPD access or digital capability just because another receiver in the household does have that access or capability.

⁸ H. R. Report 109-362 at p. 204.

8. Converter Box Tuning Capability. CBA strongly supports NTIA's proposal to require tuning capability over television broadcast Channel 2-69 for a converter box to be eligible for purchase with a subsidy coupon. It is important that the tuning capability of boxes not stop at Channel 51, because Class A and LPTV stations are permitted to operate on Channels 52-69 on a secondary basis until those channels are actually occupied by other services.⁹ Moreover, operation on temporary companion digital channels will be permitted on Channels 52-59,¹⁰ even after the end of the full power transition; and temporary flash-cut digital operation is permitted on Channels 60-69 when no other channel is available.¹¹ Users of converter boxes should not be denied access to any of the services these stations.

9. Antenna Input. CBA does not object to NTIA's proposed converter box certification requirement that permits only an RF input. However, the input should not be limited to a Type F connector. Manufacturers who choose to add a 300-ohm input with screw terminals should not be penalized for doing so.

10. Flexibility for Upgrading. Digital television technology is likely to advance in the not-too-distant future, as equipment manufacturers seek to make the system more robust and efficient. Examples include A-VSB modulation and MPEG-4 compression.¹² While converter boxes that are capable of decoding advanced technology signals may go beyond the basic "simple" box concept that is the basis for the subsidy program, CBA urges that NTIA not

⁹ See 47 CFR Sec. 74.703(f).

¹⁰ See 47 CFR Sec. 74.786(d).

¹¹ See 47 CFR Sec. 74.786(e).

¹² Today's standard digital TV technology uses 8-VSB modulation and MPEG-2 compression.

disqualify boxes that are upgradeable in the future at the customer's expense.¹³ If upgrade capability (as opposed to an actual installed upgrade) is forbidden, then the boxes that qualify for subsidies may become obsolete and may be discarded before the end of the useful life of their electronic components. If the government is going to subsidize a product, it should encourage products with long lives to maximize the public benefit from the expenditure. In no event should the program impose a restriction that will shorten the useful life of the product.

11. Publicity. CBA encourages NTIA to spend the money allocated to publicizing the converter box program efficiently. An important way to target and reach the persons most likely to rely on over-the-air reception and who have analog receivers is to advertise on analog television broadcast stations, including Class A and LPTV stations. CBA encourages NTIA to use television announcements as a basic tool in its publicity program. Class A and LPTV stations would be pleased to participate in the publicity program.

12. Conclusion. CBA appreciates the opportunity to comment in this proceeding before the subsidy program is launched. It urges NTIA to consider the special position of Class A and LPTV stations in the world of over-the-air television broadcasting and the heavy dependence of those industries on access to all receivers that still have antennas and are not captives of MVPD electronics. Localism and programming not available elsewhere are the hallmarks of the Class A and LPTV industries. These services, as well as the small business and minority and female ownership that characterize the industry, should be encouraged. At a minimum, the converter box subsidy program should not be administered so as to place

¹³ Upgrade capability could include easily replaceable "plug-in" components or empty sockets into which future modules may be inserted.

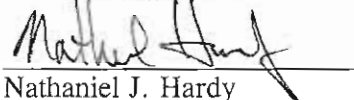
obstacles in the way of access to the receivers which Class A and LPTV stations must reach to survive and should not encourage products with short useful lives.

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Respectfully submitted,



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