



AUG 27 2008

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
House of Representatives
Washington, DC 20515

Dear Chairman Dingell:

Thank you for your letter of July 7, 2008, urging the National Telecommunications and Information Administration (NTIA) to allow for the reissuance of TV Converter Box coupons to households whose coupons have expired without being redeemed. I appreciate your concern that millions of Americans who rely solely on over-the-air broadcasts may lose their television service if the transition is not successful. Indeed, the fundamental purpose of the Coupon Program is to help facilitate the preparation of American households to ensure a successful transition.

As a threshold matter, Section 3005 of the Deficit Reduction Act of 2005 does not provide NTIA with clear authority to reissue coupons to households whose coupons have expired. Section 3005 of the Act provides that the Assistant Secretary “shall ensure that each requesting household receives...no more than two coupons.”¹ NTIA does not read this provision to authorize the agency to issue any additional coupons to households that have already requested and received two coupons, even if those coupons have not been redeemed.² In addition, NTIA does not believe that making such a change to the program at this time would be advisable.

Based on NTIA’s analysis of the statutory requirements, program regulations, contractual and programmatic matters related to the Coupon Program, the reissuance of additional coupons to households whose coupons have expired would necessitate the undertaking and completion of numerous additional actions. The added – and potentially substantial – costs and delays that would accompany each of these actions could jeopardize the Program’s ability to achieve its core mission of facilitating a smooth transition to digital television.

First, to modify the Coupon Program regulations to enable NTIA to reissue coupons to households whose coupons have expired, NTIA would need to undertake a notice and comment rulemaking proceeding, similar to the recent Notice of Proposed Rulemaking regarding eligibility of individuals residing in nursing homes. Even if, as is the case in the nursing home proceeding, such a rulemaking is conducted on an expedited

¹ See Section 3005(c)(1)(A) of Title III of the Deficit Reduction Act of 2005, Pub. L. 109-171, 120 Stat 4, 25 (Feb. 8, 2006).

² See 47 C.F.R. § 301.4(b) (providing that “[e]ach Eligible Household will be limited to a total of two coupons”).

basis, adoption of a final rule likely would not occur before early 2009. In addition, retailers have planned their participation in the coupon program in accordance with existing program rules, and the ability of retailers to accommodate eleventh-hour changes is unclear. Furthermore, we are concerned with the equity of providing a second opportunity for people whose coupons have expired, at the potential expense of those who may not have received even their first coupon.

In addition, such a change could impact NTIA's current contract with IBM to administer the Coupon Program. NTIA and IBM would need to revise the operational systems and procedures of the Program. The Program would have to make changes to all materials currently utilized in Program administration (*e.g.*, online, phone and paper application forms and processes) and consumer education to confirm that coupons previously issued to households requesting reissuance were not redeemed and have expired. New informational material also would have to be prepared and distributed to alert consumers whose coupons have expired of the availability of reissued coupons. Importantly, NTIA's analysis of the first 13 weeks of redemption data reveals that households are redeeming their coupons at a rate of 48.3 percent. If this redemption rate prevails, approximately 50 percent of consumers who have already received coupons, but allowed them to expire, could re-apply for coupons. NTIA and IBM are working very hard to honor all first-time requests within the \$160 million administrative limit for the program. The costs associated with the system modifications that would be needed to effectuate coupon reissuance, as well as those associated with an additional spike in notification, coupon request, activation and distribution demands on the system could strain significantly the Government's ability to stay within that administrative budget.

Finally, changing the regulations in the midst of the Program could compromise the importance of encouraging consumers to act promptly to use their coupons when they arrive – a key message of the Program. From a practical perspective, informing consumers that they need not take action before their coupons expire (because they will be permitted to reapply for new coupons at a later date) is likely to cause a last-minute rush on – and potential product shortages of – converter boxes at the latest stages of the transition. This has been an outcome the Program has sought diligently to avoid, especially given the consumer confusion and frustration that almost certainly would result. Moreover, it would not be fair to consumers who redeemed coupons in a timely manner, consistent with the statutory 90-day expiration and Program regulations.

NTIA does not believe that the availability of converter boxes with the permitted analog pass-through feature has been, or is, cause for consumers to delay redeeming coupons. NTIA has actively encouraged manufacturers to include the analog pass-through feature in coupon-eligible converter boxes. Moreover, NTIA has certified more than 60 such boxes to date, and more are in the process of being reviewed and tested. Therefore, NTIA believes that boxes with an analog pass-through capability are indeed widely available. To the extent that a consumer is unable to locate an analog pass-through box from a local retailer, or from one of the more than 45 telephone and online retailers, the consumer has the option of purchasing a splitter in addition to a standard box that will facilitate the reception of both analog and digital signals.

Thank you again for raising this important issue. If my staff or I can be of further assistance, please do not hesitate to contact me or Jim Wasilewski, NTIA's Director of Congressional Affairs, at (202) 482-1551.

Sincerely,



Meredith Attwell Baker
Acting Assistant Secretary
for Communications and Information

cc: The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce