

**STATEMENT OF
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LEADERSHIP CONFERENCE ON CIVIL RIGHTS &
LEADERSHIP CONFERENCE ON CIVIL RIGHTS EDUCATION FUND**

**U.S. HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, ORGANIZATION
AND PROCUREMENT
“THE DTV TRANSITION”**

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**FIELD HEARING
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Chairman Towns and members of the Committee: I am Mark Lloyd, vice president of strategic initiatives of the Leadership Conference on Civil Rights (LCCR) and the Leadership Conference on Civil Rights Education Fund. Thank you for the opportunity to testify in today’s hearing on the status of the digital television transition.

LCCR is the nation’s oldest and most diverse coalition of organizations working to protect the civil rights of all Americans through legislative advocacy. And the LCCR Education Fund is the sister organization established to further the goal of equality under law through public education. LCCR consists of approximately 200 national organizations representing people of color, women, children, organized labor, people with disabilities, seniors, gays and lesbians, and major religious groups. Given the fact that we represent a very broad coalition of organizations, I would not suggest here that my testimony fully represents the concerns of all our coalition members. With that said, we have consulted and are actively working on the DTV transition with several members of our coalition both in Washington and in the field. In addition, LCCR is a founding member and a steering committee member of the DTV Transition Coalition, a large

coalition that includes the Federal Communications Commission, the National Telecommunications and Information Administration of the U.S. Department of Commerce, industry groups, grassroots and membership organizations, manufacturers, retailers, trade associations, civil rights organizations, and community groups. I am a former broadcaster and communications attorney and I teach the public policy of communications at Georgetown University. It is a privilege to come before you to speak on an issue I have been engaged in for over ten years.

Despite the valiant volunteer work of our members and the DTV transition coalition, the nation is not prepared for the shut-off of full-power analog television broadcasting. There is, in brief, too little funding for research, education and outreach to ensure that when February 17, 2009 arrives all Americans will continue to receive over-the-air broadcasting service. As this committee knows, millions rely on broadcasting for emergency information, school closings and the news and public affairs programming so necessary for local democratic engagement. We are concerned that the disproportionate impact of this transition will result in a greater divide between those who have access to vital information and those who do not. We at the Leadership Conference are concerned that the working poor, that senior citizens, that a disproportionate number of African-Americans, Latinos, and Asian-Americans, that people with hearing or visual limitations, and that Americans living in rural areas will lose access to the vital lifeline of over-the-air television.

According to a recent survey conducted by the SmithGeiger Polling firm for the National Association of Broadcasters, while African Americans and Hispanics are increasingly aware of the digital television transition, they continue to trail the national as

a whole. In New York, 91 percent of Hispanics and 79 percent of African Americans are aware that a transition is taking place, but only 32 percent of Hispanics and 23 percent of African Americans can correctly identify the date of the transition. Approximately sixty percent of both groups do not think they will be affected by the transition. One might assume that all these households have cable, but cable penetration in New York City is comparable to the national rate of 58 percent. Here in Brooklyn cable subscription of total TV households is roughly 54 percent. Some of our communities are not clear that this transition will affect them.

Earlier this month the Leadership Conference completed an extensive report on the challenges regarding the transition to digital television. We submit that report to this committee and ask that it be included as part of the record. The serious problems with the transition identified by the Leadership Conference include:

- Lack of viewer awareness;
- Viewer and retailer confusion;
- TV converter box coupon program problems and complexities;
- Excessive and unanticipated costs and burdens to viewers to make the transition;
- Confusion over low-power and community television stations;
- Reports of unnecessary upselling;
- Difficulties in procuring digital converters;
- Difficulties with the pass-through by digital converters, cable, or satellite of captioning and any available video description;
- No rapid response plan to deal with problems after February 17, 2009

While the federal agencies most responsible for managing this transition—the National Telecommunications and Information Administration (NTIA) and the Federal Communications Commission—and a wide range of private stakeholders in the broadcasting, cable, retail, and manufacturing industries are already working hard to address the impact of the transition, LCCR believes that the challenges involved in preparing Americans for the digital television transition are of such magnitude that while active Congressional oversight is important, strong Congressional response is required. In short, our recommendations are as follows:

- Improve Organization of the Transition. As the General Accounting Office has recommended, federal leadership must be better coordinated.
- Fund Increased Consumer Outreach, Education and Research
- Reduce Costs and Burdens of Transition on Viewers
- Preserve Communities' Access to Their Low-Power Analog Television Stations
- Prepare for Rapid Response to Problems

What's at Stake

Making the transition to digital is not simply a matter of being able to watch wrestling, or *American Idol*, or reruns of *Friends*. At stake in the transition to digital television is the ability of the nation's most vulnerable populations to maintain uninterrupted access to their key source of news and information and emergency warnings: free, over-the-air television.

The loss of this important service is especially acute for the communities that LCCR member organizations represent. In 2005, the GAO found that up to 19 percent, or

roughly 21 million American households, rely exclusively on over-the-air, free television. According to the GAO, 48 percent of households that rely solely on over-the-air television have incomes under \$30,000.

These consumers will face an expensive choice to continue to receive a television signal: subscribe to cable or satellite, buy a digital television set, or purchase a digital-to-analog converter box without assistance from the government through its coupon program. All of these options cost money. Even an inexpensive converter box can cost more than a week's food budget for many low-income families and for many elderly persons living alone and on Social Security.

We are especially concerned because minority and aging households are disproportionately affected by the transition.

- According to the GAO, non-white and Hispanic households are more likely to rely on over-the-air television than are white and non-Hispanic households.
- Of the 21 million over-the-air households, one-third (or seven million people) are Spanish-language speakers, according to the testimony of Alex Nogales, President and CEO of the National Hispanic Media Coalition, before the House Subcommittee on Telecommunications and the Internet in March 2007.
- Eight million of the 21 million over-the-air households include at least one person over 50 years of age, according to the March 2005 testimony of Lavada DeSalles on behalf of AARP, before the House Subcommittee on Telecommunications and the Internet.
- One-third or more of over-the-air television viewers have disabilities, according to the American Association of People with Disabilities.

- African Americans make up 23 percent of over-the-air households, according to the National Association of Broadcasters.

LCCR believes that access to communications is a fundamental right of every American. Given the impact the transition will have on all our most vulnerable communities, LCCR applauds Congress for recognizing the need for a government compensation program to be administered by NTIA to assist with the transition. But the process that has been created raises a number of troubling concerns.

Problems with the Coupon Program

We strongly support the subsidies to American consumers to assist with the transition to digital. And the coupon program in the main seems a sensible way to provide these subsidies to all Americans. But our work on the ground indicates a variety of problems. The coupon program began well before there were sufficient converter boxes on the shelves. Many who rushed to get their coupons have felt compelled to either purchase the more expensive converter boxes or to watch their coupons expire. Converter boxes are not available or are in short supply in many rural areas. We have been told that many large national retailers refuse to accept coupons for mail order or Internet purchases of converter boxes. And not all boxes eligible for the coupon program support video description, or provide an easy pass-through of analog signals from community broadcasters.

We applaud NTIA for showing flexibility with other problematic provisions of the program. For example, in response to widely held concerns, NTIA appears to be willing to modify the coupon program to allow nursing homes with multiple residents to

apply for multiple coupons, and to show flexibility in issuing coupons to those who receive mail at a post office box.

We support the recommendations of Senators Inouye and Stevens of the Senate Commerce Committee. They want consumers to be able to use their converter box coupons to preorder the boxes so that they might order boxes that are out of stock or in limited supply and not run afoul of the expiration date. Also, they want consumers to be able to reapply for coupons if their coupons have expired, as the coupon program presently has no ability to replace or allow for reapplication of expired coupons. Another problem with the 90-day expiration date is the inability of those who applied early for coupons to purchase lower priced converter boxes, such as the boxes marketed by EchoStar, which are still not widely available.

Funding the Educational Effort

We applaud the efforts of Senator Inouye and Congressman Dingell in freeing up additional funds for the NTIA to use toward educational efforts. But we remain deeply concerned that the millions of dollars allocated by Congress will not get to community groups and direct service agencies best able to assist households that most rely on over-the-air television.

As we stated before, the initial \$5 million that Congress has allocated to NTIA to educate consumers about the coupon program was woefully inadequate to support the kind of public education effort that the transition requires. In a 2007 letter to members of the FCC, House Energy and Commerce Chairman John Dingell and Rep. Edward Markey noted that the German city of Berlin spent nearly \$1 million to educate its 3.4 million citizens about the transition to digital. The United Kingdom, a country of a little over 60

million, plans to spend \$400 million on its public education campaign. While we do not advocate spending an equivalent \$100 million to \$2 billion dollars to prepare the 300 million American consumers for the digital television transition, we do not think that the \$5 million allocated by Congress in 2005 was ever adequate to the task.

A real public education campaign does not mean merely airing a series of public service announcements that digital television is coming. It is much more complicated here. As this committee knows, not all analog broadcasts will shut down. The important services of low power such as the low power television stations WNXV-LP and WNYX-LP broadcast programs directed to various ethnic audiences largely unserved by the full power television operations. Whether and how these community broadcasters will either continue to send analog signals or make the transition to digital is unclear and will undoubtedly create some viewer confusion. According to Wikipedia, the FCC granted WNXV (TV 26) the right to “flash cut” to channel 43 after the digital transition, due to predicted interference with KYW-TV in Philadelphia, which broadcasts a digital signal on channel 26.

It is also important to note that full power television service is not simply being exchanged for a digital service. Many full power broadcasters will be sending multiple digital signals – some of those signals will be High Definition and some will not. Nor will the contour (the reach of the digital signal) exactly match the reach of the old analog signal.

These are not simple messages. And that does not even take into account the educational effort about a two-stage program involving a government coupon subsidizing

a digital converter box. Some consumers will need to be gently reminded that a transition will take place. Others will need more help through the process.

We at the Leadership Conference are working with the Southeast Asian Resource Action Center and the National Council of La Raza and the NAACP and the National Urban League and the National Congress of American Indians and the American Association of People with Disabilities and others to reach deep into communities, to work with direct service providers, to get the word out. We know that AARP and others are also extending themselves to help in getting the word out. We have received no financial assistance from the FCC or NTIA to prepare our communities for this major transition and our resources are limited.

Again, the public service announcements of the National Association of Broadcasters and PBS and others are great contributions, the educational seminars of the FCC and the NTIA website are all impressive educational efforts, but they are not enough. The lack of sufficient resources within the digital television transition consumer education effort for support of nonprofit, social justice, or community-based organizations further limits the scope of much needed direct, hands on public education efforts in communities at risk. The effort to ensure that all Americans have access to over-the-air digital television should not be left to government and industry alone; the private charitable organizations that work directly with the populations most at risk need to be engaged, but they need support.

More specifically, what is needed are efforts that fund and engage grassroots groups to conduct the training workshops; develop and disseminate the informational materials that are language appropriate and in alternate forms (Braille, audiotapes, ASCII

disk, large font, closed captioned); and provide the technical assistance that will help the low-income households, minorities, limited English-speaking families, seniors, and persons with disabilities who are most dependent on television make the transition.

LCCR is committed to working with our community-based member organizations, including groups that serve populations who speak languages other than English, and those that assist working families such as unions and religious organizations, to make sure their members know about the transition and the coupon program. But we are skeptical about the success of these efforts without additional resources. We believe that the costs of the digital transition to U.S. could be paid for by a small fraction of the 20 billion dollars generated by the auctions of reclaimed spectrum.

If Congress wants the digital television transition and coupon program to succeed, it must adequately invest in an educational program that involves all relevant sectors and that truly leaves no community behind. We strongly urge Congress to supplement the amount of funding for consumer education efforts. In the end, voters will look to Congress if their televisions go dark.

Research, Oversight, and Rapid Response

In addition to our concerns that those populations most in need will be least likely to know about the coupon program, LCCR is concerned that low-income and minority communities, seniors, and people with disabilities will be least likely to receive the first-come, first-served limited number of coupons.

NTIA's Digital-to-Analog Converter Box Coupon Program currently contemplates what is essentially a two-phase process. Under the first phase, while the initial \$990 million allocated for the program is available, all U.S. households—including

cable and satellite customers—will be eligible to request up to two \$40 coupons to purchase up to two, digital-to-analog converter boxes. Under the second phase, if NTIA requests the additional \$510 million already authorized by Congress, then households that certify in writing they rely on over-the-air reception will be eligible for coupons.

LCCR urges Congress to ensure that the transition to digital television serves to benefit all Americans. In order to do so, there must be a way for Congress to determine that coupons are going to those who most need them.

- It is clear that we will need sufficient independent research to make sure that messages about the coupon program are effective for these populations. We will need to know who is taking advantage of the coupon program during the first phase of the process, so that NTIA knows how to respond or whether and where to deploy additional funds.
- The government can play an important role in conducting this research through the General Accounting Office, with Congress tracking the progress.

In addition to an aggressive ongoing monitoring effort, there must be plans in place to respond rapidly to those most vulnerable populations who end up losing service, so that they get the education and assistance they need. If low-income households, seniors, minorities, or persons with disabilities are cut off because funds run out, Congress must allocate additional funds to ensure that all Americans can make the transition to digital TV.

Conclusion

I want to acknowledge that despite the great challenges in making sure that all Americans know about the digital television transition and the coupon program, the transition presents great opportunities. Digital TV offers viewers better quality transmission and a wider range of programming options. DTV can deliver more services to those who speak languages other than English and to people with disabilities (such as enhanced closed captioning and video description services). And by freeing up valuable spectrum the transition has the potential to open the door for more Americans to participate fully in the digital age. We at the Leadership Conference are convinced that the transition to digital television has the potential for extending the benefits of advanced telecommunications services to all Americans. We believe this is the civil rights issue of the digital age.

Thank you for both the opportunity to speak today and for your leadership as we move forward in addressing the digital television transition. I look forward to answering any questions you may have.