



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

January 19, 2001

The Honorable Ernest Hollings
Chairman
Committee on Commerce, Science and
Transportation
United States Senate
558 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Hollings:

As you well know, the Telecommunications Act of 1996 provided for a transition to digital television ("DTV") for all existing television licensees. Since the enactment of that statute, the Commission has taken significant steps toward making DTV a reality for all Americans.

Over the last three years, the Commission has adopted rules establishing the DTV service, including providing for and implementing an aggressive construction schedule for the roll-out of digital television. Over 170 stations nationwide are on the air with digital transmissions now serving 64% of Americans. In order to facilitate the roll-out of digital television, the Commission also established a DTV Strike Force to continue to assist broadcasters and local governments with tower zoning issues.

In adopting rules for the new DTV service, the Commission gave broadcasters flexibility in the services they provide using their digital spectrum, but, as required by statute, established rules setting a fee for the use of the DTV spectrum for ancillary or supplementary services. The Commission also began a rulemaking on whether and how public television stations may provide feeable ancillary or supplementary services.

The Commission has encouraged cable and broadcast cooperation in the implementation of digital television. As part of its ongoing examination of digital must carry, the Commission today adopted rules resolving a number of technical, legal and policy issues related to the cable carriage of digital broadcast signals, guaranteeing cable carriage to digital-only television stations. Among other things, the Commission also reaffirmed its selection of the 8-VSB transmission standard. These decisions provide broadcasters with the clarity and flexibility necessary to accelerate the build out of their DTV operations, while ensuring that all Americans will participate in the digital television future.

In addition, the Commission has previously adopted requirements that DTV receivers carry labels informing consumers of the ability of the receivers to operate with cable TV systems. The Commission also has adopted rules to promote a competitive retail market for digital set-top boxes and other navigation devices and to limit the integrated security functions in these devices. Taken together, these rules will aid broadcasters in their business planning for the digital television era, and speed the transition to this new technology.

Finally, in conjunction with the transition to digital television, the Commission reallocated television channels 60-69 to other services, including advanced wireless services and for public safety use.

The success of the transition to digital television depends on the conversion of all of the component elements of today's broadcast television service to provide and/or support digital operation. As we have already seen, delays or problems in converting any of these elements can have the effect of slowing progress in most or all of the others. Although substantial progress is being made towards moving the transition forward, there are some important, outstanding issues that could slow its progress.

Certain congressional actions could help to speed the DTV transition to a rapid and successful conclusion. In this regard, I respectfully recommend that you consider the enclosed proposals that are targeted to expedite the DTV transition through its scheduled completion in 2006, pursuant to Section 309(j)(14) of the Communications Act of 1934.

First, in order to insure that the transition to digital television is completed by December 31, 2006, the Balanced Budget Act of 1997 prohibited the renewal of incumbent analog television stations' licenses beyond December 31, 2006. The Balanced Budget Act, however, allowed analog television stations to continue to broadcast beyond that date where 15% or more of the households in the market in which they operate do not receive digital television service. As has been demonstrated in the introduction of other new television services, the transition to a new service that requires new equipment may take many years, if not decades, to complete. For example, it took 22 years for color television to reach 85% of American homes, and 16 years for VCRs to reach that level of penetration.

In order to ensure an expeditious transition to digital television and rapid development of returned analog spectrum for new technologies and services, the 107th Congress should consider amending the exception contained in 309(j)(14), as one of the enclosed legislative proposals provides. As you know, the FCC is required under Section 309(j)(14)(C)(ii) to auction analog broadcast spectrum that is reclaimed pursuant to the FCC digital transition process by September 30, 2002. The proposed amendment would repeal for channels 52-69 the exception that allows analog stations in those frequencies to broadcast beyond December 31, 2006 when digital audience penetration in a market has not achieved 15% or more, and would substitute a firm December 31, 2006 date. Such an amendment would facilitate the transition to digital television and would further the

competitive bidding objectives of Section 309(j)(3) of the Act, which, among other things, promote rapid delivery of new services and technologies, competition and the recovery for the public of a portion of the value of spectrum. The firm deadline would be limited to channels 52-69 because this is where substantial, contiguous blocks of spectrum can become available for new services and technologies such as Third Generation or "3G" mobile data offerings.

In conjunction with this proposed amendment, Congress should consider providing an additional incentive to all television licensees to return their analog spectrum as soon as practicable after December 31, 2006. For example, Congress could require that, as of January 1, 2007, those broadcasters continuing to use analog channels 2-51 pay a fee for the continued use of these channels. This fee would escalate yearly, until broadcasters complete their transition to digital and return the analog spectrum to the American people. The post-2006 charge on broadcasters that continue analog broadcasting would create an economic incentive for those broadcasters to speed their transition from analog to digital transmissions. This would increase the number of stations transmitting digitally and provide further incentives for consumers to buy DTV receivers.

The proceeds from this spectrum fee could then be used to help fund the digital conversion of public television, especially in rural and underserved areas. In addition, these proceeds could be part of a Congressional initiative to support educational or informational programming that serves the public but is not provided by the market, through the Corporation for Public Broadcasting, or through another funding mechanism or mechanisms created by Congress.

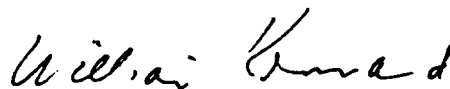
Second, a successful transition to digital television requires availability not only of digital television signals, but also of television receivers capable of receiving such signals. To this end, Congress should consider requiring that television receivers be digital television compatible. In this regard, Congress should amend the Communications Act to require that new television receivers above a certain screen size, e.g., 13 inches, include the capability to receive DTV signals. Such a requirement could be phased in by the Commission over an appropriate period of time that would allow manufacturers to develop the economies of scale necessary to allow them to provide DTV reception capabilities on an affordable basis. For example, the first phase of such a plan could require a percentage of receivers with large screen sizes to include DTV reception capability. This percentage would be increased over time, and at an appropriate point would also be applied to smaller screen receivers until all receivers with screen size, e.g., 13 inches or more, would be required to have DTV reception capability.

With regard to this recommendation, I note that the cost of DTV receiver chips is coming down rapidly and, as an example of this, that HDTV receiver cards for computers are now available for about \$150. With the economies of scale involved in producing all larger screen TV sets with DTV capability, chip prices could be quickly brought down very low so that the effect on receiver prices would be minimized.

Finally, the availability of digital television signals and receivers is of little value to the American people without the corresponding availability of programming. As you know, representatives of content producers and equipment manufacturers are in the midst of negotiations to implement a copy protection system that would permit content producers to protect their intellectual property rights while preserving consumers' ability to copy television programming in the digital world as they do in the analog world. If these negotiations are not successful, or are not concluded in a timely manner and thereby become an impediment to the further deployment of DTV, Congress should consider addressing the issue of copy protection in the digital television context.

The transition to digital television will bring tremendous benefits to the public, both in enhanced broadcast services and in the return of valuable spectrum for auction and for public safety use. Through the work of Congress and the Commission over the last several years, that transition has been successfully commenced. I hope that the enclosed legislative proposals prove helpful in bringing this transition to a rapid and successful conclusion.

Sincerely,



William E. Kennard
Chairman

Enclosures

Enclosure to letter to The Honorable Ernest Hollings
From Chairman William E. Kennard, FCC
Dated January 19, 2001

EXPEDITING THE TRANSITION TO DIGITAL TELEVISION

Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. §309(j)(14)) is amended (by inserting the words "licensed on channels 2-51") to read as follows:

Section 309(j)(14)(B) is amended to read "(B) Extension.—The Commission shall extend the date described in subparagraph (A) for any station **licensed on channels 2-51** that requests such an extension in any television market if the Commission finds that--..."

A new Section 309(j)(14)(E) is added as follows:

"(D) The Commission is authorized to prescribe by rulemaking a fee to be assessed on any television broadcast licensee that continues analog broadcasting after December 31, 2006. The fee shall be assessed on an annual basis and may increase in each succeeding year after 2007."

Explanation

This amendment would provide for a firm deadline for terminating analog service on channels 52-69 and authorize the Commission to impose an escalating charge on broadcasters in channels 2-51 who continue analog service after December 31, 2006. In the absence of a firm deadline, the transition is likely to last well beyond 2006. To put the 85% penetration figure of the current Section 309(j)(14)(B) into perspective, it took color television 22 years to reach 85% penetration of US television households and it took videocassette recorders 16 years to reach the 85% penetration level. Neither public safety organizations, nor commercial wireless providers can wait 22 years – or even 16 years – before they have full access to the 700 MHz channels in order to serve the public.

The firm deadline is limited to the "out-of-core" channels 52-69 because it is in this band that substantial, contiguous blocks of spectrum can become available. Pursuant to Section 309(j)(14)(C)(ii), the Commission will auction this spectrum by September 30, 2002 in order to achieve the statutory goals of Section 309(j)(3). These goals include, *inter alia*, development and rapid deployment of new technologies, efficient and intensive use of the electromagnetic spectrum, and recovery for the public of a portion of the value of the public spectrum. (The highly valued uses to which this spectrum might be put include but are not limited to third generation wireless or fixed broadband).

It is worth noting that the efficiency of the auction (scheduled to begin March 6, 2001 for 30 MHz of spectrum in the channel 60-69 band) would be enhanced if bidders had a clear idea in advance of when the spectrum would actually become available to them. Adopting this proposal in advance of the auction would not only give bidders that clear idea but would likely increase the "portion of the value of the public spectrum resource" that Congress has directed the Commission to recover.

The post-2006 charge on broadcasters in the core that continue analog broadcasting will provide those broadcasters with an economic incentive to speed their transition from analog to digital transmissions. This will increase the number of stations transmitting digitally and provide further incentives for consumers to buy DTV receivers. The availability of such receivers will be spurred by our accompanying legislative proposal to mandate DTV-compatible TV receivers after January 1, 2003.

Please note that these proposals do not provide for complete clearing of channels 52-69 because there are digital as well as analog allotments on those channels.

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MANDATING DIGITAL RECEPTION CAPABILITY

Section 303(s) of the Communications Act of 1934 (47 U.S.C. Sec. 303(s)) is amended by adding at the end thereof the following: **"The Commission further shall promulgate regulations to require that after January 1, 2003, in the case of an apparatus designed to receive television signals that is shipped in interstate commerce, manufactured in the United States, or imported from any foreign country into the United States, for sale or resale to the public, such apparatus be equipped to receive digital television broadcast signals. The Commission shall promulgate these regulations by means of a phased-in implementation schedule to be determined by the Commission pursuant to a notice-and-comment-rulemaking under 5 U.S.C. Sec. 553."**

Explanation

This amendment would require the Commission to mandate on a phased-in basis that television reception equipment after January 1, 2003 be capable of receiving digital television broadcast signals (hereafter "DTV"). The availability of receivers that are equipped to display DTV signals is a critical issue in the pending transition from analog to digital TV. Mandating DTV compatibility would both accelerate DTV deployment as well as make DTV technology much more affordable by unleashing market forces and economies of scale to drive down the cost of equipment and receiver chips on both sets and converter boxes.

The cost of DTV receiver chips is declining rapidly. For example, HDTV "receiver cards" for computers are now available for only about \$150. With the economies of scale involved in producing all larger screen TV sets with DTV capability, chip prices could be quickly reduced to such a low amount as to minimize the effect on receiver prices.

The Commission would determine an appropriate schedule to mandate DTV reception capability only after balancing a number of related factors in the pending transition from analog to digital broadcasting. These factors will include the impact on consumer TV choice and price, the development and status of DTV technology, and the benefits to be derived from speeding up the transition from analog to digital broadcasting.

The Commission would determine such a schedule to mandate DTV reception capability, e.g., by way of a DTV receiver card, through a notice-and-comment rulemaking conducted pursuant to the Administrative Procedure Act, 5 U.S.C. Sec. 553. As part of this rulemaking, the Commission would promulgate a schedule to implement the DTV reception capability requirement in a systematic, phased-in fashion over a number of years. This would allow manufacturers to develop the economies of scale necessary to allow them to provide DTV reception capabilities on an affordable basis. For example, subject to the comments it receives in the rulemaking, the FCC could decide that this phased-in schedule would require TV set manufacturers to include DTV reception capability in a certain percentage of TV units in various sizes they manufacture each year. The schedule could start in 2003, for example, with a percentage of the largest sets of 32 inches or greater in diagonal screen size, and proceed over the next three years through 2006 to include increasing percentages of smaller TV sets until all sets over a certain size, e.g., 13 inches and over, would be required to have DTV reception capability.