

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)
)
Implementation of Short-term Analog Flash)
and Emergency Readiness Act; Establishment) MB Docket No. 08-255
of DTV Transition “Analog Nightlight”)
Program)

**REPLY COMMENTS OF
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

The National Cable & Telecommunications Association (NCTA) hereby submits its reply comments in the above-captioned proceeding. NCTA is the principal trade association representing the cable television industry in the United States. Its members include cable operators serving more than 90% of the nation’s cable television subscribers, as well as more than 200 cable programming networks and services. NCTA’s members also include suppliers of equipment and services to the cable industry. The cable industry is also the nation’s largest broadband provider of high speed Internet access after investing \$100 billion over ten years to build out a two-way interactive network with fiber optic technology.

NCTA and its members have played a major and continuing role in educating consumers about the upcoming DTV transition and about the available options to ensure continued reception of broadcast programming after the cessation of most analog broadcasting on February 17, 2009. NCTA and the cable industry have been fully on board to ensure a smooth DTV transition and fully support the “analog nightlight” program as a means of achieving this goal.

The Commission has rightly put this proceeding on a fast track in order to establish rules for implementing this program as quickly as possible, and we have only four brief points that we urge the Commission to take into account:

First, as the Notice of Proposed Rulemaking acknowledges,¹ Congress expressly provided that cable operators were to have no “must carry” obligations with respect to any analog signals transmitted pursuant to the “analog nightlight” program.² Cable carriage of such signals would be pointless in any case since the whole purpose of the program is to provide information to *over-the-air viewers* who have not taken steps to receive the new digital broadcast signals. The Commission’s rules should clearly state, as the statute does, that there is no obligation for cable operators to carry analog nightlight signals.

Second, consistent with the Commission’s ongoing educational efforts and requirements regarding the DTV transition, the Commission should ensure and require that broadcasters, when using analog nightlight channels to inform viewers of how to receive digital broadcast signals, provide information regarding *all* their available alternatives. Specifically, broadcasters should explain not only that viewers may obtain and install digital-to-analog over-the-air converter boxes but also that they can subscribe to their local cable system or to any other multichannel video programming distributor that carries the broadcaster’s signal.³

Third, the Commission has rightly determined that operation of analog nightlight channels should not be authorized where such operation would interfere with viewer reception of digital broadcast channels or with public safety services. The minimum co-channel and adjacent

¹ *Notice of Proposed Rulemaking* at ¶10.

² Short-Term Analog Flash and Emergency Readiness Act, § 3(3).

³ Such a message was aired by the Wilmington, N.C. stations on their analog signals when they ceased regular analog broadcasting. *See Notice* at n.12 (“To receive your television signals, upgrade to digital now with a converter box, a new TV set with a digital (ATSC) tuner or by subscribing to a pay service like cable or satellite.”). The FCC’s own website on the DTV transition includes, in its answer to the question “What do I need to do to be ready for the end of analog TV broadcasting?” a statement that “Cable and satellite TV subscribers with analog TVs hooked up to their cable or satellite service should not be affected by the February 17, 2009 cut-off date for full-power analog broadcasting.” <http://www.dtv.gov/consumercorner.html#faq3>. Similarly, the “Consumer Alert” that the Commission has required retailers to provide when selling analog-only television sets specifically provides that “[a]nalog-only TVs should continue to work as before with cable and satellite TV services. . . .” <http://www.dtv.gov/whatisdtv.html>.

channel spacing parameters established by the Commission are designed to ensure that, as a general matter, there is unlikely to be significant interference at viewers' homes. But these predictive standards cannot ensure against the possibility that interference may result at the particular location of a cable headend, where digital broadcast signals are received over the air before being retransmitted on the cable system. If such interference were to occur, the effect would be to make a digital broadcast signal unviewable to *all* the households served by the system throughout the community. Moreover, the risk of such interference at the cable headend would obviously be heightened if the Commission were to relax the interference standards, as proposed by NAB and MSTV, in order to allow more analog nightlight stations.⁴

It is impossible, in the limited time available before the transition ends, to analyze and predict the potential effects of each proposed analog nightlight signal on each cable headend in its community. Instead, the Commission should make clear that in the event that any broadcaster's nightlight signal *does* result in any significant interference with the reception of digital signals at a cable headend, the broadcaster must immediately take whatever steps are effective – including, if necessary, reducing power or turning off its nightlight signal – to eliminate such interference.

Fourth, in response to the Notice's discussion of local call centers,⁵ the joint comments of a group of state broadcaster associations ("State Associations") note that "The State Associations, through the National Alliance of State Broadcasters Associations ("NASBA"), are working with the NAB, the National Cable Television Association [*sic*], the television networks, the FCC and the Obama Transition Team on plans for an industry-based national call center

⁴ See Comments of the National Association of Broadcasters and the Association for Maximum Service Television at 6-8.

⁵ Notice at ¶ 29.

(“National Call Center” or “NCC”) that would complement the FCC’s own call center, as well as the call centers that exist at the various state and local levels.” In connection with this joint effort to help ensure the availability of digital broadcast signals to over-the-air households, the State Associations point out that the National Alliance of State Broadcasters Associations “has requested from the FCC funding for in-state phone banks, which can cost from \$15,000 to \$40,000 for three months of service.”⁶

The voluntary inter-industry efforts to create a National Call Center will impose substantial costs on *all* participants. The cable industry has not sought any subsidies from the government (or from broadcasters) for its contribution to this public interest initiative. But if the government were to assist in the funding of call centers established and operated by private parties, any such subsidies should be offered on an equitable basis to all such parties. There would be no basis for singling out broadcasters for government support while providing no similar support to other industry participants.

Respectfully submitted,

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⁶ Joint Comments of State Associations at 6-7 (*citing* E-mail from Richard R. Zaragoza, Counsel for NASBA, to Kevin J. Martin, FCC Chairman (Dec. 16, 2008)).