

SUPPORTING STATEMENT

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

In the DTV Act, Congress amended 47 USC Section 309(j)(14)(A) to establish February 17, 2009 as the firm deadline for the transition from analog to digital television service by full power television broadcasters. In a continuing effort to inform consumers of this impending deadline, the Commission will require sellers at the point-of-sale to alert consumers that analog-only televisions will not be able to receive over-the-air TV broadcasts after that date.¹ The Commission amended 47 CFR 15.117(i) in 2005 to prohibit the manufacture or import of television receivers that do not contain a digital tuner after March 1, 2007. Because the rule does not prohibit sale of analog-only television equipment from inventory, the Commission decided it is necessary to require retailers and other sellers who choose to continue selling analog-only television equipment to display a sign or label disclosing the future limitations of analog-only equipment. Therefore, the Commission adopted on April 25, 2007, a *Second Report and Order, In the Matter of Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket 03-15, FCC 07-69. This rulemaking adopted 47 CFR 15.117(k).

47 CFR 15.117(k) requires any person that displays or offers for sale or rent television receiving equipment that is not capable of receiving, decoding and tuning digital signals to place the Consumer Alert Disclosure² conspicuously and in close proximity to such analog-only television broadcast receivers where they are offered for sale. The text should be in a size of type large enough to be clear, conspicuous and readily legible, consistent with the dimensions of the equipment and the label. The information may be printed on a transparent material and affixed to the screen, if the receiver includes a display, in a manner that is removable by the consumer and does not obscure the picture. If the receiver does not include a display, the Consumer Alert Disclosure must be in a prominent location on the device, such as on the top or front of the device, when displayed for sale, or the information in this format may be displayed separately immediately adjacent to each television broadcast receiver offered for sale and clearly associated with the analog-only model to which it pertains.

47 CFR 15.117(k) also requires any person that displays or offers for sale or rent television receiving equipment that is not capable of receiving, decoding and tuning digital signals to display the Consumer Alert Disclosure on analog-only television broadcast receivers that are for sale or rent by the retailer via direct mail, catalog, or electronic means (e.g., via internet). The disclosure shall be prominently displayed in close proximity to the images or descriptions of such television broadcast receivers, in clear

¹ Consumers with analog-only television equipment will not be able to receive an over-the-air broadcast signal unless they get a digital TV or a box to convert the digital signals to analog or subscribe to pay TV service after February 17, 2009.

² The Consumer Alert Disclosure must contain the following language: "This television receiver has only an analog broadcast tuner and will require a converter box after February 17, 2009, to receive over-the-air broadcasts with an antenna because of the Nation's transition to digital broadcasting. Analog-only TVs should continue to work as before with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products. For more information, call the Federal Communications Commission at 1-888-225-5322 (TTY: 1-888-835-5322) or visit the Commission's digital television website at: www.dtv.gov."

and conspicuous print. The text should be in a size large enough to be clear, conspicuous, and readily legible, consistent with the dimensions of the advertisement or description.

The Commission is requesting by May 18, 2007 OMB emergency approval for the Consumer Alert requirement to allow the Commission to implement this important disclosure requirement by May 25, 2007 to alert and disclose to consumers information concerning analog-only television broadcast receivers. If consumers were not informed of this information, they would not be aware that the analog-only television equipment they are purchasing will not work to receive over-the-air television signals after February 17, 2009. Lack of this information is harmful to consumers both financially and as a matter of safety and security.

As noted on the OMB Form 83-I, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Statutory authority for this collection of information is contained in Sections 1, 2(a), 3(33) and (52), 4(i) and (j), 7, 301, 303(r) and (s), 309, 336, 337, and 624a of the Communications Act of 1934, as amended.

2. Indicate how, by whom, and for what purpose the information is to be used.

Consumers expect that equipment sold as a "television" is and will continue to be able to receive over-the-air broadcast signals, and, if not, then such material information should be disclosed by retailers prior to purchase.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

This is a labeling requirement. The use of information technology is feasible in this situation.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

This agency does not impose a similar information collection on the respondents. There are no similar data available.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The *Second Report and Order* requires retailers to place a label or display a sign on or near analog-only television sets that discloses the limitations for such sets in the near future. This requirement applies alike to large and small sellers of television equipment who choose to sell analog-only televisions after March 1, 2007.

Beginning March 1, 2007, manufacturers and distributors are prohibited from making, importing or shipping in interstate commerce a television set that has an analog tuner but not a digital tuner. This point-of-sale disclosure requirement ensures that if sellers want to sell or rent analog-only televisions from existing inventory, they must be sure consumers understand the limitations that will apply when full power analog broadcasting ceases on February 17, 2009. The Commission also considered, and rejected, proposals to require many more disclosures with respect to digital television sets. The Commission rejected these proposals because, in its opinion, adequate information is being made available to consumers from their own activities, industry efforts, disclosures encouraged by the Commission, and actions by consumer protection authorities.

The Commission believes whatever burdens small entities may incur in complying with the decision made in the *Second Report and Order* are mitigated by the factors above. They are also warranted by the overall benefit to the public from accomplishing the transition from analog to digital television and reducing the consumer disruption related thereto. These benefits include better television; job creation; economic growth; stimulation of new technology in this country; and the shift of spectrum from television broadcasting to other uses such as new wireless services and public safety and homeland security applications.

6. Describe the consequence to federal programs or policy activities if the collection is not conducted or is conducted less frequently.

The government has a strong interest in ensuring a timely conclusion of the digital transition, reducing consumer disruption and confusion, and limiting the number of consumers who are left without over-the-air television service on some or all of their television sets when the analog broadcast service ends in two years. Accurate communication of this impending change is a highly material disclosure for consumers contemplating the purchase of a television. It is also a matter of public safety for consumers who rely on analog-only televisions to obtain critical information in an emergency. After the transition, absent a label requirement, even cable and satellite subscribers might be surprised to find that they cannot receive television broadcasts over-the-air on an analog-only television purchased today if they choose to discontinue subscription service or their cable or satellite service is terminated by a disaster, service disruption or for non-payment of their bills.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- a) requiring respondents to report information to the agency more often than quarterly;**
- b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- c) requiring respondents to submit more than an original and two copies of any document;**
- d) requiring respondents to retain records for more than three years;**

e) in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;

f) requiring the use of statistical data classification that has not been reviewed and approved by OMB;

g) that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or

h) requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances associated with this collection of information.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format, and on data elements to be recorded, disclosed, or reported.

The Commission will publish a Notice in the *Federal Register* to allow the public to comment on this collection of information. The Commission is seeking emergency approval for this information collection from OMB to implement these disclosure requirements.

9. Explain any decision to provide any payment or gift to respondents.

No payment or gift was provided to the respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

There is no need for confidentiality.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

This collection of information does not address any private matters of a sensitive nature.

12. Provide an estimate of the hour burden of the collection of information. The statement should indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Provide estimates of annualized costs to respondents for the hour burdens for collections of information. The cost of contracting out or paying outside

parties for information collection activities should not be included here. Instead this cost should be included in Item 13.

We estimate 10,000 retailers will label or display disclosures for ten analog-only television receivers (sets, VCRs, etc.) each that are displayed on the sales floor or via direct mail, in a catalog, online or other electronic means.³ The Commission estimates that 2.5 million analog-only TV sets will be sold or rented, but only ten per retailer (100,000 sets total) are expected to be displayed on the sales floor or via direct mail or other electronic means, and therefore require the Consumer Alert Disclosure. We estimate this activity will require 0.25 hours for each TV set or other type of TV broadcast receiver that is displayed.

Total Number of Annual Respondents: 10,000 Retailers of Television Receiving Equipment

Total Number of Annual Responses:

10,000 retailers x 1 label/disclosure requirement each x 10 TV sets/each =
100,000 Consumer Alert Disclosures

Total Annual Burden Hours:

10,000 retailers x 1 label/disclosure requirement x 10 TV equipment each x 0.25 hrs./TV set = **25,000 hrs.**

Annual “In-House” Cost: We assume that the retailer will provide the disclosure labeling using staff at \$8 an hour.

10,000 retailers x 1 label/disclosure requirement x 10 TV equipment each x 0.25 hrs./TV set x \$8.00/hr.
=\$200,000

Total Annual “In-House” Cost: \$200,000

13. Provide an estimate of the total annual cost burden to respondents resulting from the collection of information. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Do not include the cost of any hour burden shown in Item 12.

(a) Total annualized capital/startup costs: **None**

³ The Consumer Alert Disclosure is not required to be labeled or displayed on sets that are in a box unless the store puts all of the sets out on the sales floor. This disclosure requirement applies only to TV receivers that are displayed on the sales floor.

- (b) Total annual costs (O&M): **None**
- (c) Total annualized cost requested: **None**

14. Provide estimates of costs to the federal government. Provide a description of the method used to estimate costs, which should include quantification of hours, operational expenses such as equipment, overhead, printing, and support staff.

There is no cost to the Federal Government.

15. Unless this a new collection of information, explain the reasons for any program changes or adjustments.

This is a new information collection.

16. For collections of information whose results will be published, outline plans for tabulation, and publication.

The data will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

OMB approval of the expiration of the information collection will be displayed at 47 CFR 0.408.

18. Explain each exception to the certification statement identified in Item 19 "Certification for Paperwork Reduction Act Submissions" of OMB Form 83-I.

The Commission is requesting emergency approval of this information collection from OMB. Therefore, there are no exceptions to Item 19 of the Certification Statement.

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.