



Federal Communications Commission
Washington, D.C. 20554

February 18, 2009

Kevin Neyland
Deputy Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Neyland:

By this letter, the Federal Communications Commission (FCC) seeks to satisfy the conditional approval obtained on February 11 under the Paperwork Reduction Act of 1995, and in accordance with OMB's emergency processing rules (5 CFR 1320.13), to modify the following two existing DTV transition-related information collection requirements, as described in detail below: (1) OMB Control No. 3060-0386 (informal notifications to FCC); and (2) OMB Control No. 3060-1117 (viewer notifications).

On February 11, 2009, the DTV Delay Act was signed by the President and enacted into law, extending the nationwide DTV transition date from February 17 until June 12, 2009. As a result, after June 12, 2009, full-power television broadcast stations must transmit only digital signals, and may no longer transmit analog signals,¹ except for limited analog "nightlight" service.² The DTV Delay Act directs the Commission to take any actions "necessary or appropriate to implement the provisions, and carry out the purposes" of the DTV Delay Act, and to do so within 30 days.³ Congress extended the transition date in order to permit analog service to continue until consumers have had additional time to prepare.⁴ But Congress also directed the Commission to provide

¹ See DTV Delay Act, Pub. L. No. 111-4, 123 Stat. 112 (2009). The DTV Delay Act (to be codified at 47 U.S.C. §§ 309(j)(14) and 337(e)), amends Section 309(j)(14) of the Communications Act to establish June 12, 2009 as the new nationwide deadline for the end of analog transmissions by full-power stations. 47 U.S.C. § 309(j)(14)(A) ("A full-power television broadcast license that authorizes analog television service may not be renewed to authorize such service for a period that extends beyond June 12, 2009."). See also 47 U.S.C. § 337(e)(1) ("Any full-power television station licensee that holds a television broadcast license to operate between 698 and 806 megahertz may not operate at that frequency after June 12, 2009.").

² See the Short-term Analog Flash and Emergency Readiness Act, Pub. L. No. 110-459, 122 Stat. 5121 (2008) ("Analog Nightlight Act").

³ DTV Delay Act § 4(c) ("Notwithstanding any other provision of law, the Federal Communications Commission ... shall, not later than 30 days after the date of enactment of this Act, each adopt or revise its rules, regulations, or orders or take such other actions as may be necessary or appropriate to implement the provisions, and carry out the purposes, of this Act and the amendments made by this Act."). In addition, the DTV Delay Act amends the Digital Television and Public Safety Act of 2005 ("DTV Act"), Pub. L. No. 109-171, 120 Stat. 4 (2006), to direct the Commission to "take such actions as are necessary (1) to terminate all licenses for full-power television stations in the analog television service, and to require the cessation of broadcasting by full-power stations in the analog television service, by June 13, 2009; and (2) to require by June 13, 2009, ... all broadcasting by full-power stations in the digital television service, occur only on channels between channels 2 and 36, inclusive, or 38 and 51, inclusive (between frequencies 54 and 698 megahertz, inclusive)." 47 U.S.C.A. § 309 Note.

⁴ See, e.g., Cong. Rec. H895 (daily ed. February 4, 2009).

flexibility for stations wanting to transition prior to the new date.⁵ Stations may have made extensive preparations for a February 17 digital transition and some may have difficulty altering their commitments at this time. The Commission's challenge is to provide opportunities for some stations to end analog broadcasting early without sacrificing the goal of giving consumers additional time to prepare.

February 5 Public Notice.⁶ On February 5, 2009, the Commission released a Public Notice, FCC 09-6 ("February 5 Public Notice"), in which it granted a partial waiver of the Third DTV Periodic Report and Order, FCC 07-228 (2007), to permit television broadcast stations to cease analog broadcasting on February 17, 2009, despite the extension of the national DTV transition deadline to June 12, 2009 pursuant to the DTV Delay Act. This public notice contained three revised information collection requirements for stations wanting to terminate analog service on February 17, 2009 (the previous nationwide transition date): (1) notifications to the FCC ("February 17 Termination Notifications");⁷ (2) the equivalent of 30 days worth of "viewer notifications;"⁸ and (3) a "7-day crawl" viewer notification to be aired in the final seven days leading up to February 17, 2009.⁹

February 11 Public Notice.¹⁰ On February 11, 2009, after review of the 491 February 17 Termination Notifications (due February 9), the Commission released a Public Notice, FCC 09-7 ("February 11 Public Notice"), in which it reconsidered the partial waiver granted in the February 5 Public Notice with regard to 123 stations intending to terminate analog service on February 17, 2009, based on the conclusion that termination by such stations posed a significant risk of substantial public harm. As a result, the Commission required these 123 stations to support and supplement their initial February 17 Termination Notifications by February 13 by either (1) certifying compliance with several public interest conditions;¹¹ or (2) showing "that extraordinary, exigent circumstances, such as the unavoidable loss of their analog site or extreme economic hardship, require that they terminate their analog service on February 17th the public interest."

⁵ DTV Delay Act, § 4(a) ("PERMISSIVE EARLY TERMINATION UNDER EXISTING REQUIREMENTS.— Nothing in this Act is intended to prevent a licensee of a television broadcast station from terminating the broadcasting of such station's analog television signal (and continuing to broadcast exclusively in the digital television service) prior to the date established by law under section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 for termination of all licenses for full-power television stations in the analog television service (as amended by section 2 of this Act) so long as such prior termination is conducted in accordance with the Federal Communications Commission's requirements in effect on the date of enactment of this Act, including the flexible procedures established in the Matter of Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (FCC 07-228, MB Docket No. 07-91, released December 31, 2007)").

⁶ Public Notice, "FCC Announces Procedures Regarding Termination of Analog Television Service On or After February 17, 2009," FCC 09-6 (rel. Feb. 5, 2009) ("February 5 Public Notice").

⁷ OMB Control No. 3060-0386 (CDBS Informal Filing Form).

⁸ See OMB Control No. 3060-1117 (viewer notifications). This was an existing requirement for early terminators. Stations terminating on February 17 became early terminators upon enactment of the DTV Delay Act. Approval for this non-substantial modification to this existing collection was approved as a non-substantial change as a result of the nationwide transition date change.

⁹ See OMB Control No. 3060-1117.

¹⁰ Public Notice, "FCC Requires Public Interest Conditions for Certain Analog TV Terminations on February 17, 2009," FCC 09-7 (rel. Feb. 11, 2009) ("February 11 Public Notice").

¹¹ For the list of eight public interest conditions, see February 11 Public Notice, attached.

REVISED INFORMATION COLLECTION REQUIREMENTS:

1. **February 17 Termination Notifications.** Stations that wish to terminate their analog signal transmission on February 17, 2009 must file a notification to the Commission no later than Monday, February 9, 2009 (11:59 p.m. EST),¹² of their intention to terminate analog service, as planned, on the previous nationwide transition date of February 17. Stations must file these notifications through the FCC's Consolidated Database System ("CDBS") using the Informal Application Filing Form. Stations also were required to indicate whether they would provide "analog nightlight"-type service for up to 30 days after February 17. See OMB Control No. 3060-0386.
2. **Certifications and Showings.** For stations intending to terminate analog service on February 17, 2009, the Commission required stations to support and supplement their initial February 17 Termination Notifications by February 13 by either (1) certifying compliance with several public interest conditions;¹³ or (2) showing "that extraordinary, exigent circumstances, such as the unavoidable loss of their analog site or extreme economic hardship, require that they terminate their analog service on February 17th the public interest."
3. **"7-day crawl" Viewer Notification.** As a condition of the waiver to terminate analog signal transmission on February 17, 2009, and if technically feasible, stations were required to broadcast a crawl on their analog channel regarding the station's termination of analog service, for the seven day period from February 10 (11:59 p.m. EST) through the termination of the station's analog signal on February 17 (11:59 p.m. EST). For the first five days, the crawl must be aired for 5 minutes of every hour of the station's analog broadcast day, including during primetime; and for the final two days, the crawl must be aired for 10 minutes of every hour of the station's analog broadcast day, including during primetime. Stations that lack the technical capability to air crawls must instead air information about the station's termination of analog service on February 17 in an alternative format for a comparable duration.

¹² The short deadline for notification to the Commission is necessary to enable the Commission to evaluate and adjust deployment of its resources, and to coordinate with other entities, in advance of February 17 in order to prepare for analog service terminations on that date and protect the public interest. The Commission must make and adjust arrangements for consumer outreach, call center staffing, converter installation assistance and coordinate with contractors, partners, volunteers, and organizations throughout the country to address areas where many or most stations will terminate their analog signals on February 17, 2009. We also note that stations have had ample time during Congressional review of the legislation to consider whether to go forward with their analog termination on February 17, 2009.

¹³ For the list of eight public interest conditions, see February 11 Public Notice, attached.

FCC staff is ready to work with your PRA Desk Officer to immediately provide any additional information needed to assure OMB's approval.

Sincerely,

Mindy Ginsburg
Deputy Managing Director
Federal Communications Commission