

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.

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 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

¹See 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).

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”).

OMB Control Number: 3060-1115

February 2009

Title: DTV Consumer Education Initiative; Sections 15.124, 27.20, 54.418, 73.674, 76.1630; FCC Form 388.

opportunities for some stations to end analog broadcasting early without sacrificing the goal of giving consumers additional time to prepare.

On February 20, 2009, the Commission adopted and released a Second Report and Order and Notice of Proposed Rulemaking (FCC 09-11) in MB Docket No. 09-17 to implement the DTV Delay Act.⁶ The Commission's requirements and proposals are influenced by its experience planning for the partial transition by one-third of the full power stations on or just before February 17, 2009 (the previous nationwide transition date). The Commission has found that advance planning and station commitment to nighttime service and public interest outreach contribute to a smoother transition.

Notice of Proposed Rulemaking. In the NPRM, the Commission proposes to require all full-power television broadcast stations, as part of their existing consumer education requirements, to provide specific notice to analog viewers who are likely to lose over-the-air service from the station due to changes in the station's coverage area ("Service Loss Consumer Education Requirement"). See OMB Control No. 3060-1115. The Commission's experience with stations that have already terminated analog service, particularly in those areas where an entire market has transitioned, is that loss of a station due to a change in the digital coverage area creates the greatest consumer confusion and distress. Therefore, the Commission proposes to require stations to provide specific notice to analog viewers who are likely to lose over-the-air service from the station due to changes in the geographic coverage area or population served by the station during or after the transition. This is already required for "Option One" stations, and would now apply to stations that elected Options Two or Three. The information would be provided to stations' viewers via the already required consumer education initiative PSAs.

REVISED INFORMATION COLLECTION REQUIREMENTS WHICH NEED OMB REVIEW AND APPROVAL:

1. **Service Loss Consumer Education Requirement.** As part of their existing and ongoing consumer education requirements through the end of the nationwide transition deadline and for a limited period after the deadline, all full-power television broadcast stations must provide specific notice to analog viewers who are likely to lose over-the-air service from the station due to changes in the geographic coverage area or population served by the station during or after the transition. The information would be provided to stations' viewers via the PSAs aired to satisfy the existing consumer education initiative requirements. This is already required for "Option One" stations, and would now apply to stations that elected Options Two or Three. Stations would also be required to provide the following additional information: (1) geographically specific information detailing areas that are covered by the Grade B analog contour but are not predicted to receive digital service; (2) educational information describing areas where analog signal strength is generally sufficient for viewers to rely on an indoor antenna but where it is likely that they will need an outdoor antenna to receive the digital signal; (3) information to consumers about the need to periodically "rescan" when using over-the-air digital reception equipment, particularly through the end of the transition; (4) stations that are changing their broadcast frequency from VHF to UHF (or vice versa), information to consumers about the need for additional or different equipment to avoid loss of service. Because this required information

⁶ Implementation of the DTV Delay Act, MB Docket No. 09-17, Second Report and Order and Notice of Proposed Rulemaking, FCC 09-11 (rel. Feb. 20, 2009) ("Second R&O" and "NPRM").

OMB Control Number: 3060-1115

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to viewers will be included in the existing PSA requirements, the Commission expects that this requirement will not generally increase existing burdens.

2. **Other Proposed Modifications to Consumer Education Requirements.** The Commission also proposes changes to the following existing Consumer Education Requirements: (1) the “100-Day Countdown” required in Option Two; and (2) the 30 minute informational video required in both Option Two and Option Three. The Commission expects that these changes will not increase the existing burdens for these requirements. In addition, the Commission considers a third change to existing Consumer Education Requirements: whether stations that participate in or support the post-transition analog nighttime program should be exempt from post-transition consumer education requirements. If adopted, this will reduce the burdens for some stations.

These requirements are also approved under this information collection and have not changed since last approved by OMB. These requirements will remain in effect through the end of the nationwide transition deadline and for a limited period after the transition:

The Commission established the following requirements in the Orders in the *DTV Consumer Education Initiative* proceeding, MB Docket 07-148. The requirements established in this proceeding were intended to remain in effect through the end of the nationwide transition deadline and for a limited period after the transition. After the delay in the nationwide transition date (as mandated by the DTV Delay Act), the Commission obtained emergency OMB approval to cover the period through the new transition deadline and for a limited period of time after the deadline as required in the *DTV Consumer Education Initiative* proceeding, MB Docket 07-148.

(1) Broadcaster Education and Reporting (47 CFR 73.674).⁷

(a) On-air Education. Broadcasters must provide on-air DTV Transition consumer education information (e.g., via Public Service Announcements (PSAs), information crawls, snipes or tickers) to their viewers. Broadcasters must comply with one of three alternative sets of rules as provided in the Report and Order. Broadcasters must continue to provide on air education to their viewers through the end of the DTV transition date, and for a specified amount of time after such date as may be required by FCC Order.⁸

(b) DTV Consumer Education Quarterly Activity Report, FCC Form 388. Broadcasters must electronically file a report about its DTV Transition consumer education efforts to the Commission on a quarterly basis. Broadcasters must begin filing these quarterly reports no later than April 10, 2008. In addition, if the broadcaster has a public website, they must post these reports on that website. Broadcasters must complete these filings every quarter through the end of the transition, and for a specified amount of time after such date as may be required by FCC Order.⁹

⁷ For the recordkeeping requirement for the retention of FCC Form 388, see 73.3526(e)(11)(iv) and 73.3527(e)(13) which can be found under OMB control number 3060-0214.

⁸ This submission will cover any future date extensions that occur due to the DTV transition.

⁹ This submission will cover any future date extensions that occur due to the DTV transition.

OMB Control Number: 3060-1115

February 2009

Title: DTV Consumer Education Initiative; Sections 15.124, 27.20, 54.418, 73.674, 76.1630; FCC Form 388.

(2) Multichannel Video Programming Distributor (MVPD) Customer Bill Notices (47 CFR 76.1630). MVPDs must provide monthly notices about the DTV transition in their customer billing statements. They include (but are not limited to), for example: cable operators, direct broadcast satellite (DBS) carriers, open video system operators, and private cable operators. MVPD must continue doing these notices through June 30, 2009.¹⁰

(3). Consumer Electronics Manufacturer Notices (47 CFR 15.124). The “responsible party,” as defined in the Commission’s rules, has to include a notice about the digital television (DTV) transition on television receivers and related devices manufactured¹¹ between May 30, 2008 and June 30, 2009.¹² The notices themselves must include the Commission’s contact information (rather than the manufacturer’s), convey information about the DTV transition,¹³ and must be included with covered devices.

(4). Eligible telecommunications carriers (ETCs) Federal Universal Service Low-Income Program Participant Notices (47 CFR 54.418). ETCs that receive federal universal service funds shall provide their Lifeline or Link-up customers (low-income customers) with notices about the transition for over-the-air full power broadcasting from analog to digital service (the “DTV Transition”) in monthly bills, bill notices, or as a monthly stand-alone mailer (e.g., postcard, brochure), beginning May 30, 2008 through June 30, 2009.¹⁴

(5) 700 MHz Wireless Service Licensee/Permittees Consumer Education Reporting (47 CFR 27.20). Winners of the 700 MHz spectrum auction must report their consumer education efforts to the Commission on a quarterly basis. These parties must file the first by the tenth day of the first calendar quarter following the initial grant of the license authorization that the entity holds. These parties must continue doing these notices through June 30, 2009.¹⁵

(6) DTV.gov Partner Consumer Education Reporting. DTV.gov Transition Partners must report their consumer education efforts, as a condition of continuing Partner status. They must begin filing these quarterly reports no later than April 10, 2008. (No change as a result of the transition date change.)

¹⁰ This submission will cover any future date extensions that occur due to the DTV transition.

¹¹ Related devices covered by this requirement includes: all television broadcast receivers, TV interface devices, devices designed to record and/or display signals from television broadcast receivers, and multi-channel video programming distributors set-top boxes available for sale at retail.

¹² This submission will cover any future date extensions that occur due to the DTV transition.

¹³ See 47 CFR 15.124 (b).

¹⁴ This submission will cover any future date extensions that occur due to the DTV transition.

¹⁵ This submission will cover any future date extensions that occur due to the DTV transition.

OMB Control Number: 3060-1115

February 2009

Title: DTV Consumer Education Initiative; Sections 15.124, 27.20, 54.418, 73.674, 76.1630; FCC Form 388.

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 4(i), 303(r), 335, and 336, of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), 335, and 336.

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

Information will be provided to consumers by full-power television broadcasters, MVPDs, manufacturers of television receivers and related devices, and ETCs, for the purpose of educating the public about the DTV transition. Information will be provided to the Commission by full-power television broadcasters, DTV.gov Transition Partners, and certain wireless service providers in the 700 MHz band (*i.e.*, auction winners of 700 MHz spectrum), to allow the Commission to enforce its consumer education rules and to serve as the central clearinghouse and director of DTV Transition education efforts by remaining aware of industry efforts.

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.

Information provided to the Commission: Broadcasters will provide the required information to the Commission electronically via the FCC Form 388 (DTV Consumer Education Quarterly Activity Report) using the Commission's Consolidated DataBase System (CDBS). DTV.gov Transition Partners and 700 MHz licensees/permittees (*i.e.*, auction winners of the 700 MHz spectrum) may provide the required information to the Commission electronically via the Commission's Electronic Comment Filing System (ECFS).

Information provided to consumers/public: Broadcasters will provide the required information to their viewers via their regular over-the-air broadcast signal (e.g., via PSAs, information crawls, snipes, or tickers). In addition, broadcaster will post their FCC Form 388 Reports on their website. MVPDs and ETCs will provide the required information to their customers via notices in monthly bills or monthly stand-alone mailers and may provide this information electronically where customers receive an electronic bill instead of a paper bill. Parties that manufacture, import, or ship interstate television receivers and devices will provide the required information to their customers via notices in consumer electronics packaging, and so cannot provide this information electronically.

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.

In the record in MB Docket 07-148, the National Association of Broadcasters ("NAB") stated plans to make informative PSAs available to all broadcasters, even non-members, which will reduce the cost burden of the requirement to air them. Also, the mandatory broadcaster filing form does not require extensive information gathering. Most importantly, although these requirements will impose some costs on small broadcasters, they will also ensure that small broadcasters continue to retain their audiences after the transition by fully informing viewers of the steps necessary to keep watching. Small broadcasters rely completely on their viewing audience for their revenue stream, so this benefit should far outweigh any costs for this temporary requirement.

Small MVPDs will have costs for printing "bill stuffer" transition notices to include with their bills and bill notices. These costs can be somewhat ameliorated by the use of electronic and automatic billing, and the transition education campaign could potentially result in an increase of MVPD subscriptions from over-the-air subscribers and increased equipment rentals from current subscribers who wish to extend service to all of their televisions prior to the transition. The costs for small MVPDs will therefore, likely not be significant.

The costs of reporting outreach efforts to the Commission by the winners of the 700 MHz auction will be de minimis, consisting solely of narrative reports in a flexible format describing outreach efforts the winner has chosen to make. On the other hand, small manufacturers of television receivers and related equipment, and small providers of telecommunications services to low-income households, will have costs to produce and distribute transition notices to their customers and subscribers. These will not be any greater for small than for large companies, however. The very limited nature of the notification requirements for both groups mean that no lighter burden could be placed on small entities without essentially eliminating the benefit to consumers of a comprehensive transition education campaign.

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

Congress has mandated that after June 12, 2009, full -power broadcast stations must transmit only in digital signals, and may no longer transmit analog signals (except for FCC approved "analog nightlight" service). There is a clear and compelling need for educational efforts directed toward consumers. If the Commission does not take immediate and effective action to ensure that viewers are informed of the effect that the digital transition will have on them and the options that are available to them, some consumers may lose television service. The limited-duration burdens are the minimum necessary to ensure the success of the transition. Without these submissions, the Commission will not be able to verify that the DTV transition is progressing smoothly and play its leadership role in ensuring that the burden on consumers is minimized as much as possible.

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.**

This information collection may require a written disclosure by manufacturers, or a written report by broadcasters, DTV.gov partners, and winners of the 700 MHz auction, within 30 days of adoption. Given the limited amount of time remaining before the conclusion, it is essential that information be made available to the Commission and the public rapidly and accurately.

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 published a notice in the Federal Register on February 27, 2009 seeking public comment on the information collection requirements contained in this supporting statement, *see 74 FR 8889*. To date, no comments have been received from the public.

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

No payment or gift will be 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 for this collection of information.

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.

The following estimates are provided for public burden:

Number of Respondents	Number of Filings	Number of Responses	Respondent's Burden Hours	Annual Burden Hours	Respondent's Hourly Salary	Annual In-House Cost
Broadcasters – Section 73.674 (FCC Form 388)						
1,815	6 ¹⁶	10,890	3 hours	32,670	\$48.08	\$1,570,774
Broadcasters – Section 73.674 (On-Air Education)¹⁷						
515 ¹⁸	2 ¹⁹	1,030	85 hours	87,550	\$48.08	\$4,209,404
900 ²⁰	2 ²¹	1,800	26 hours	46,800	\$48.08	\$2,250,144
400 ²²	2 ²³	800	11 hours	8,800	\$48.08	\$ 423,104
Broadcasters – Section 73.674 (Website Postings)						
1,815	6	10,890	0.5 hours	5,445	\$48.08	\$ 261,796
Multichannel video programming distributors (MVPDs) – Section 76.1630						
1,452	17 ²⁴	24,684	1 hour	24,684	\$48.08	\$1,186,807

¹⁶ One report per quarter, per broadcaster, for six quarters.

¹⁷ Because this required information to viewers will be included in the existing PSA requirements, the Commission expects that this requirement will not generally increase existing burdens.

¹⁸ This estimates the number of broadcasters that will use Option One to provide on-air education; see 47 C.F.R. § 73.674(c).

¹⁹ This estimate assumes broadcasters will restart their education program in light of the new transition date.

²⁰ This estimates the number of broadcasters that will use Option Two to provide on-air education; see 47 C.F.R. § 73.674(d).

²¹ This estimate assumes broadcasters will restart their education program in light of the new transition date.

²² This estimates the number of NCE broadcasters that will use Option Three to provide on-air education; see 47 C.F.R. § 73.674(e).

²³ This estimate assumes broadcasters will restart their education program in light of the new transition date.

OMB Control Number: 3060-1115

February 2009

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Manufacturers of television receivers and related devices -- Section 15.124						
1,692	2	3,384	.75 hours	2,538	\$48.08	\$ 122,027
DTV.gov Partners						
53	5 ²⁵	265	3 hours	795	\$48.08	\$ 38,224
ETCs that receive federal universal service funds -- Section 54.418						
2,166	17 ²⁶	36,822	1 hour	36,822	\$48.08	\$1,779,402
Winners of the 700 MHz spectrum auction -- Section 27.20						
214	6 ²⁷	1,284	3 hours	3,852	\$48.08	\$ 185,204
11,022 respondents		91,849 responses		249,956 hours		\$12,026,886 In-House Cost

TOTAL NUMBER OF ANNUAL RESPONDENTS: 11,022

TOTAL NUMBER OF ANNUAL RESPONSES: 91,849

TOTAL NUMBER OF ANNUAL BURDEN HOURS: 249,956 HOURS

TOTAL ANNUAL "IN-HOUSE" COST: \$12,026,886

We estimate that the respondents would have an average salary of \$100,000/year (\$48.08/hour).

These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required.

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**

(b) Total annual costs (O&M): **None**

²⁴ One revised notice (replacing the previous notice already being provided) per month, per MVPD, for 17 months.

²⁵ One report per quarter, per winner, for no more than five quarters.

²⁶ One revised notice (replacing the previous notice already being provided) per month, per ETC, for 17 months; distributed only to a subset of customers.

²⁷ One report per quarter, per winner, for no more than six quarters.

OMB Control Number: 3060-1115

February 2009

Title: DTV Consumer Education Initiative; Sections 15.124, 27.20, 54.418, 73.674, 76.1630; FCC Form 388.

(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.

There are no program changes or adjustments to this information collection due to the adoption of FCC 09-11 because this required information to viewers will be included in the existing PSA requirements, the Commission expects that this requirement will not generally increase existing burdens.

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.

There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.