

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Second Periodic Review of the)	MB Docket No. 03-15
Commission's Rules and Policies)	
Affecting the Conversion)	
To Digital Television)	
)	

REPLY COMMENTS OF THOMSON INC.

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TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. CONSUMER INVESTMENT IN DTV DEPENDS UPON CONSUMER ACCESS TO DTV, INCLUDING HDTV.....	2
A. An Intermediate Deadline By Which Broadcasters Must Provide A DTV Signal Of Sufficient Strength To Cover Their Grade A Contour Is A Reasonable And Necessary Step To Drive Consumer Investment in DTV.....	3
B. Consumer Rejection of DTV Will Flow From An HDTV “Bait and Switch”	5
III. THE RECORD REFLECTS A REMARKABLE CONSENSUS THAT FCC ADOPTION AND MANDATE OF THE PSIP A/65B STANDARD WILL BENEFIT CONSUMERS AND THE DTV TRANSITION	6
IV. DTV MANUFACTURERS WILL PROVIDE CONSUMERS WITH ABUNDANT AND ACCURATE INFORMATION CONCERNING THE FUNCTIONALITY AND LIMITATIONS OF THE EQUIPMENT THEY PURCHASE.....	8
V. CONCLUSION.....	10

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Thomson Inc. ("Thomson") respectfully submits these Reply Comments in the above-captioned proceeding concerning the Commission's rules and policies affecting the transition to digital television ("DTV").¹

I. INTRODUCTION

Thomson notes in these Reply Comments that there are several relatively easy-to-accomplish actions that the Commission can take in the very near-term that, combined, will result in measurable progress toward the conversion to digital television. These actions, for which there is broad support in the record, include: (1) adoption of an interim deadline by which broadcasters must provide a DTV signal of sufficient strength to reach viewers in their Grade A contour and pass through network-originated HDTV programming; and (2) adoption of the full A/65B PSIP standard and mandate its use by broadcasters. Ideally, these actions would be timed to coincide with the Commission's July 1, 2004, initial deadline for large-screen TVs to include ATSC reception capability, so that a core segment of consumers for the first time will have access to a "critical mass" DTV offering: a strong,

¹ *In the Matter of Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 03-15, *Notice of Proposed Rulemaking*, 18 FCC Rcd 1279 (2003) ("NPRM").

viewable digital signal; HDTV programming; consumer-friendly, reliable DTV channel tuning and digital closed captioning (and other) functionalities; and a growing array of DTV receivers.

Moreover, if the Commission, as it should, also adopts swiftly (i.e., no later than the third quarter of 2003) the proposed “Plug and Play” agreement for unidirectional cable-ready digital devices, that critical mass DTV offering will expand to become “cable-ready” and therefore even more desirable to even more consumers. Consumers have been holding back for this critical mass to materialize. It is now within the Commission’s reach to make that happen.

II. CONSUMER INVESTMENT IN DTV DEPENDS UPON CONSUMER ACCESS TO DTV, INCLUDING HDTV

Consumers are not going to be willing to make the investments necessary to more quickly and ubiquitously drive DTV penetration if they cannot receive from their local broadcasters: (a) any DTV signal at all due to the broadcaster’s decision to transmit at extremely low power; or (b) network-delivered HDTV programming. Especially when the July 1, 2004, deadline for ATSC reception capability in large screen TVs kicks in, the Commission must avoid at all costs the nightmare scenario wherein consumers plug in their new large-screen HDTV Set only to find that they cannot enjoy HDTV programming because their local broadcast affiliate won’t pass through network-originated HDTV programming, or – even worse – that they cannot receive any DTV signal at all due to its being transmitted at extremely low power.

A. **An Intermediate Deadline By Which Broadcasters Must Provide A DTV Signal Of Sufficient Strength To Cover Their Grade A Contour Is A Reasonable And Necessary Step To Drive Consumer Investment in DTV**

Several commenters in this proceeding recognize the need to ensure that consumers who purchase DTV receivers are able to actually receive a DTV signal of adequate strength,² echoing Thomson's concern that more than half of all local broadcasters with a digital signal on the air today may be operating their DTV facilities at such low power that they are denying any digital signal whatsoever to a substantial portion of their viewers.³

Compounding these concerns, cable operators state that DTV broadcasters, in some instances, are failing to deliver a good quality signal to cable head-ends,⁴ thereby diminishing consumers' access to DTV even more. If this failure is in any way attributable to low-power digital signals, imagine the irony: broadcasters have been fighting so intensively for mandated carriage of their digital signals during the transition (i.e., without losing carriage of their analog signals), yet themselves are failing to deliver a DTV signal capable of being retransmitted by the cable operator. The implications for consumers, of course, are less access to DTV and greater annoyance, if not exasperation, with the transition. Moreover, the enormous achievement of finally enabling seamless compatibility between digital cable systems and DTV receivers (in the form of the recently-released "Plug and Play" compatibility agreement, which Thomson has urged the Commission to adopt swiftly),⁵ would be frustrated by the prevalence of inadequately powered broadcast transmission facilities – particularly those failing to cover the Grade A contour. Meaningful power levels for broadcast facilities are

² See Joint Comments of the Association of Maximum Service Television ("MSTV") and the National Association of Broadcasters ("NAB") ("MSTV/NAB") at 14, Consumer Federation of America at 3, Harris at 4-6, Consumer Electronics Association ("CEA") at 9-10.

³ See, Thomson at 6-7.

⁴ See, American Cable Association at 2, National Cable and Telecommunications Association ("NCTA") at 7-9.

⁵ See Thomson at 8.

indispensable to permitting consumers to enjoy the benefits of these technological and business breakthroughs.

It is essential that the Commission do everything in its power to hasten the availability of DTV signals to every viewer that can receive analog signals today. To that end, Thomson is pleased that the broadcast industry appears prepared to accept as a partial step toward that objective the Commission's establishment of an interim deadline whereby broadcasters would be required to provide a DTV signal of adequate strength to cover their Grade A contour,⁶ as suggested by others (including Thomson) in this proceeding.⁷ By establishing such a deadline,⁸ the Commission would move the DTV transition forward in a very meaningful way, particularly by ensuring access to DTV signals by those who live in suburban communities – areas more likely to include “early adopters” of DTV. To coincide with the date by which large screen TVs must include ATSC reception capability, as well as the time frame in which cable systems will support unidirectional cable-ready DTVs (assuming the Commission promptly adopts the regulations required to implement the “Plug and Play” agreement),⁹ Thomson urges that the Commission act expeditiously to require that, by no later than July 1, 2004, broadcasters provide a DTV signal of sufficient strength to reach all viewers within their Grade A contour. Such a requirement is essential to ensure that a critical mass of consumers – whether over-the-air or via cable – will have access to DTV and HDTV programming, thereby meeting their expectations for a

⁶ See, MSTV/NAB at 13-14 (“An intermediate signal strength requirement... would accomplish the Commission's goal of ensuring that DTV service is available to the great majority of Americans so as to drive consumer investment in DTV sets, while at the same time ensuring that viewers enjoy widespread, interference-free over-the-air digital television service...”); See also Belo Corp. at 10.

⁷ See Thomson at 8, Harris Corporation (“Harris”) at 4-6.

⁸ Thomson recognizes that broadcasters are conditioning their willingness to embrace an interim deadline for required power levels exceeding those under current regulations upon extending the replication and maximization deadlines to the end of the transition. See MSTV/NAB at 13-14. While Thomson believes that the Commission's proposal regarding dates for replication and maximization is calculated to lead to a faster transition, an interim Grade A coverage requirement would be helpful, regardless of the ultimate disposition of the maximization and replication issues.

⁹ See 18 FCC Rcd 518, 546.

consumer-friendly transition, increasing demand for DTV receivers, and driving the transition more rapidly to its completion.

B. Consumer Rejection of DTV Will Flow From An HDTV “Bait and Switch”

As Thomson also noted in its initial Comments, consumers purchasing HDTVs rightly expect that local affiliates offering a DTV signal will use that capability to pass through network-originated HDTV programming.¹⁰ If large numbers of consumers find they are unable to receive HDTV programming – the very thing driving their purchase of an HDTV Set – despite the fact that their local affiliate is “on the air” with a DTV signal, they will be tempted to reject the DTV transition as nothing less than a “bait and switch,” a consumer attitude that could have devastating effects on their acceptance of DTV.

Notably, the cable industry has conducted research that quantifies this concern in very stark terms. According to NCTA, nearly half – 400 – of all DTV stations on the air currently are not offering HDTV programming.¹¹ For broadcasters – an industry that only last week claimed to the U.S. Senate to be the most profitable business in the United States¹² – not to equip themselves to pass through HDTV programming puts them in the position of becoming an HDTV bottleneck, and one that will choke-off consumer access to the most desirable and marketable feature DTV has to offer. The Commission should not allow this to stand.

Given the critical role of HDTV programming in driving consumer sales of digital television receivers, particularly in the initial phases of the transition, it is essential that broadcasters pass through HDTV programming, in its full resolution, for the enjoyment of the growing numbers of viewers

¹⁰ See Thomson at 6.

¹¹ See NCTA at 7, n. 9.

¹² See Senate Committee on Commerce, Science & Transportation, Hearing on Media Ownership (Broadcast Television), May 13, 2003, available at http://www.senate.gov/~commerce/hearings/testimony.cfm?id=758&wit_id=2050.

equipped to receive these services. Accordingly, Thomson urges the Commission to take all steps necessary to require broadcast affiliates to pass through HDTV programming, preferably within a time frame congruent with the July 1, 2004, deadline for large-screen TVs to include ATSC reception capability.

III. THE RECORD REFLECTS A REMARKABLE CONSENSUS THAT FCC ADOPTION AND MANDATE OF THE PSIP A/65B STANDARD WILL BENEFIT CONSUMERS AND THE DTV TRANSITION

To see consensus among entities as diverse as those affected by the transition to DTV is unquestionably uncommon. However, as the record in this proceeding reflects, such a consensus clearly exists on the question of whether the Commission should adopt the full A/65B PSIP standard and require broadcasters to transmit PSIP information in its entirety. Indeed, every party addressing this issue – including the major broadcast trade associations, individual commercial broadcasters (including a major network and studio owner), public broadcasters and programmers, consumer electronics manufacturers, and a broadcast equipment manufacturer – all endorse Commission adoption of the entire A/65B PSIP standard and requiring broadcasters to include PSIP information in their digital signals.

Broadcasters recognize that the adoption of the PSIP standard is necessary “...to facilitate easy access by viewers to DTV services and...necessary [to ensure] reliable, real-world operation [of DTV receivers].¹³ Similarly, one major broadcast network (that also is a major content owner) notes that adoption and mandate of the full PSIP standard will provide vital “consumer-friendly”

¹³ MSTV/NAB at 27. Public broadcasters echo this view, *see* Joint Comments of the Association of Public Television Stations, Corporation for Public Broadcasting and Public Broadcasting Service at 43. *See also* Cox Broadcasting, Inc. at 7; and Capitol Broadcasting Company, Inc. at 13.

information that will “ease consumers’ transition to digital.”¹⁴ Consumer electronics manufacturers, in addition to Thomson, note that adoption and mandate of the entire PSIP standard “will benefit consumers at no cost by ensuring that all the functionalities built into DTV broadcast receivers will operate as intended, including closed captioning, V-chip and translator reception.”¹⁵ Moreover, the leading provider of broadcast transmission systems also recognizes the importance of a PSIP mandate, noting that required use by broadcasters of the full A/65B PSIP standard will avoid consumer frustration and confusion by ensuring “uniformity in PSIP and program stream metadata across all broadcast stations, uniformity in receiver behavior across all channels in a reception area...and [uniformity in] the tuning and navigation functions of DTV receivers...regardless of DTV receiver brand or model.”¹⁶ Finally, the Advanced Television Systems Committee (“ATSC”) urges “that the FCC...mandate use of the [A65/B PSIP] Standard,” noting, *inter alia*, that “consistent broadcaster implementation of PSIP will allow consumer electronics manufacturers to design receivers that can easily acquire DTV services to provide viewers with a good user experience.”¹⁷

While the emergence of a truly consensus view on any DTV-related issue is notable (if only for its rarity), from a substantive perspective, the consensus evident in the instant case makes total sense. Swift adoption of the PSIP A/65B standard – if necessary, before the Commission takes other actions in this proceeding – is eminently doable and will help ensure that DTV meets or exceeds consumers’ expectations for a smooth and consumer-friendly experience. Thomson therefore urges the Commission to adopt the full A/65B PSIP standard as quickly as possible, preferably mandating

¹⁴ Walt Disney Company/ABC Television Network (“Disney/ABC”) at 5. Disney/ABC also notes that adoption of the A/65B PSIP standard would be an important element to implementing a digital broadcast content protection system based upon the broadcast flag. *See* Disney/ABC at 6.

¹⁵ CEA at 25; *see also* Sharp Electronics at 6-16.

¹⁶ Harris at 8.

¹⁷ ATSC at 5.

its full use by all broadcasters by no later than July 1, 2004, the initial deadline for integration of ATSC reception capability in large screen DTV receivers.¹⁸

IV. DTV MANUFACTURERS WILL PROVIDE CONSUMERS WITH ABUNDANT AND ACCURATE INFORMATION CONCERNING THE FUNCTIONALITY AND LIMITATIONS OF THE EQUIPMENT THEY PURCHASE

In their comments, broadcasters continue to beat the “government-mandated labeling regime” drum, arguing that such a labeling regime is a minimally acceptable approach to ensuring that consumers are adequately informed about the functionality (or lack thereof) of the television receivers they purchase.¹⁹ Implicit in this argument, of course, is the contention that consumer electronics manufacturers have little or no incentive to ensure the complete satisfaction of their customers, regardless of the fact that the consumer electronics marketplace is one of the most intensely competitive to be found. It is a contention, implicit or not, that does not pass the “straight face” test. A consumer electronics manufacturer that is contented to have its customers *discontented* with the products they purchase is simply not a successful consumer electronics manufacturer for long.

In fact, the consumer electronics industry has committed substantial time and resources to ensure that consumers understand the capabilities and, if applicable, the limitations of the DTV products they purchase.²⁰ Thomson believes that information available to consumers should conform to CE manufacturers’ industry-wide DTV nomenclature and definitions. This is particularly important in the case of HDTV Sets (an industry-defined term for devices with HDTV displays and integrated DTV receivers) and HDTV Monitors (also industry-defined, this group of devices requires a separate receiver).

¹⁸ See 47 CFR § 15.117(i). If the Commission determines that broadcasters need a grace period to implement such a requirement (Disney/ABC, at 5, *e.g.*, suggests 90 to 120 days), Thomson urges the Commission to adopt rules sufficiently swiftly so as to ensure any such grace period *ends* as of July 4, 2004.

¹⁹ See MSTV/NAB at 35-36.

²⁰ See CEA at 23.

To the extent some broadcasters continue to voice concern about the potential emergence of devices that are digital cable-ready but incapable of receiving over-the-air signals,²¹ Thomson again would reassure the Commission and broadcasters that the chances of such products, *so unnecessarily limited in functionality*, ever becoming commercially viable are extremely remote. In this regard, broadcasters raising these concerns reveal a critical misconception about the manufacturing process for digital cable-ready and ATSC-ready televisions, as they apparently assume that ATSC reception capability is something added *after* the receiver has digital cable-ready circuitry. In fact, just the opposite is true. Incorporating digital cable reception (pursuant to the standards agreed to in the Plug and Play agreement, as well as in broadcasters' preferred EIA-818 standard) typically *begins* with the incorporation of ATSC reception capability. Inclusion of digital cable-ready reception capability, which shares many of the same electronics and components, represents a *de minimis* addition to the basic platform. It simply makes no economic – much less competitive – sense to design a TV that is digital cable-ready but not also ATSC-ready; to do so would be akin to offering a TV without a remote control – in each case, the additional feature not only responds to a market expectation or demand, but also has relatively minor cost impact. As Thomson stated in its initial Comments, the marketplace conditions that have militated against such digital products in the past remain much the same today.²² Accordingly, the Commission should continue on its chosen path to leave DTV product labeling to the same formidable market forces that already drive consumer electronics innovation, quality and affordability.

²¹ See, e.g., Sinclair Broadcast Group, Inc. at 21.

²² See Thomson at 10. Moreover, to the extent that a market for “pure monitors” (*i.e.*, devices that can display HDTV but cannot receive either over-the-air (ATSC or NTSC) signals *or* cable- or satellite-delivered services) might exist, Thomson suggests that the lack of a Commission rule prohibiting such devices could serve as a market “pressure point” to incentivize broadcasters to offer DTV signals and HDTV programming to the maximum number of consumers possible, as quickly as possible. In any event, a Commission mandate prohibiting such devices would represent an extraordinary intrusion in the marketplace, as it would essentially require any video

V. **CONCLUSION**

For these reasons, Thomson urges the Commission to: (a) require, by July 1, 2004, that all broadcasters transmit a DTV signal of sufficient power to serve their entire Grade A contour and pass through, without degradation, network-delivered HDTV programming; (b) adopt the full A/65B PSIP standard for use by all broadcasters, effective July 1, 2004; and (c) continue to permit the healthy market forces already driving intense quality and price competition in the consumer electronics market to dictate the content and manner in which manufacturers inform consumers of the capabilities of the equipment they purchase.

Respectfully submitted,

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(...continued)

display device (including, but not limited to, computers, closed circuit televisions, etc.) to include over-the-air reception capability regardless of its primary intended use.