

**Before the  
Federal Communications Commission**

In the Matter of	)	
	)	
Second Periodic Review of the	)	MB Docket No. 03-15
Commission's Rules and Policies	)	
Affecting the Conversion	)	RM 9832
To Digital Television	)	
	)	
Public Interest Obligations of TV	)	MM Docket No. 99-360
Broadcast Licensees	)	
	)	
Children's Television Obligations	)	MM Docket No. 00-167
Digital Television Broadcasters	)	
	)	
Standardized and Enhanced	)	MM Docket No. 00-168
Disclosure Requirements for Television	)	
Broadcast Licensee Public	)	
Interest Obligations	)	

**REPLY COMMENTS OF  
CONSUMER FEDERATION OF AMERICA**

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## **THE FCC HAS BUNGLED THE TRANSITION TO DIGITAL TV BY FAILING TO PROMOTE THE PUBLIC INTEREST AS THE TRUSTEE OF THE PUBLIC AIRWAVES**

One need only place side-by-side the comments of each of the sectors that must interoperate and cooperate in order to accomplish the transition to digital TV to see where the problem lies. Each sector has done its job, played its part, but it is the other sectors that have dropped the ball. Broadcasters claim to have made digital programming available to 98 percent of the country. Equipment manufacturers have hundreds of digital display devices available. Cable operators have upgraded 80 percent of their systems.

Yet, almost no one in America owns a digital TV set or watches a digital picture and those who do are liable to see big black borders on the screen because the TV cannot properly display the picture it receives, or has not been provided the information needed to recognize that it can.

The industry sectors are correct. They are not to blame for failing to coordinate the transition because their job is to promote the private interests of the individual companies within their sector and there are clearly conflicts of interests between the sectors. None can submerge their private interests to the public good.

The only entity charged with promoting and protecting the public interest is the Federal Communications Commission. After the broadcaster were given a gift of free use of the most valuable real estate in cyberspace, the FCC as the trustee of the public airwaves, was empowered by Congress to ensure that it was quickly and efficiently used.

The current disarray in the transition is largely the result of the failure of the FCC to provide leadership and exercise its authority. Instead, it has relied on voluntary industry negotiations in which commercial interests obliterate the public interest. Abdicating its

authority, the FCC has let deadline after deadline slip, failed to ensure consumer convenience, imposed unnecessary costs on consumers, and failed to establish public interests obligations.

At each and every critical juncture, the FCC has dropped the ball.

- Broadcast signals are unavailable
- Content is limited
- Lack of Vision -- Promised quality is not delivered
- Functionality is being reduced, not expanded.
- Economics are not consumer-friendly
- Innovation is retarded through gate keeping by anticompetitive private interests

#### **UNAVAILABILITY OF SIGNALS**

Just three years before policymakers thought the transition would be completed half the TV stations in America are not broadcasting digital signals. Of the half that are broadcasting digital signals, half are broadcasting at low power.

An even greater cause of the lack of availability of digital signals, since almost 70 percent of American households get their television through cable wires not broadcast signals, is the fact that cable operators retransmit almost no broadcast digital signals.

#### **LIMITED PROGRAMMING**

Those households who do have HDTV sets have precious little to watch. HD programming has been creeping through prime time. More importantly, there is little promotion of HD programming, so the shows that are available are not widely known.

Equipment manufacturers are still being forced foot the costs of promoting HD programming. Electronic guides do not identify this programming, nor do many printed materials.

### **LACK OF VISION**

With the broadcasters moving slowly to make programming available and making little effort to promote it, one is led to wonder about their belief in the value of the improvement in picture quality.

In fact, there are other behaviors of the broadcast industry that devalues the HD programming. Some broadcasters express a preference for standard definition digital multicasting, rather than high definition. This may enable them to build new business models on the additional channels, but it diminishes the quality of the pictures. This leaves consumers with equipment that does not perform as promised.

There is also a movement afoot to diminish the quality of pictures by purposely reducing the resolution of the picture (down-ressing). The objective is to diminish the incentive to illegally copy content. If this operation is successful, the patient will die.

Low power transmission also undermines the functionality of the HD sets by diminishing the capability tuners. People cannot get the signal they thought or hoped they would.

For the vast majority of consumers who get their signal through the cable wire, there is yet another problem. Cable TV systems are not compatible with broadcast signals, or the set top boxes do not know that they are (because the necessary information is not transmitted). The consumer receives a picture framed in a black box that blots out a part of the reason they bought their new TV sets in the first place.

## **REDUCED FUNCTIONALITY**

When the picture arrives at the consumer residence, there may be yet another problem if the content producers have their way. The broadcast flag will restrict the ability of consumers to record and replay content on their other devices.

Electronic program guides might not work because of the failure to provide PSIP information. Other functionalities may also be rendered inoperative by the failure to pass critical information.

## **ANTI-CONSUMER ECONOMICS**

The failure of the TV industry to provide a compelling reason to buy HD sets, has kept the market small. Notwithstanding declining prices, even the least expensive full functioning HDTV set (receiver and display device) costs several times its analog equivalent. The vast majority of sets available are several times as expensive as the least costly models. In other words, the market is centered on HD sets that are five times as expensive as typical analog sets.

The investment in HDTV sets is not only large, but it involves substantial risks. Because standards governing interoperability, capture and transmission of content between devices, and encryption are uncertain, consumers cannot have confidence that the sets they purchase will function properly in the future. They are faced with having their legacy systems cut off from future generations of content or being forced to bear significant upgrade costs.

## **RETARDING INNOVATION**

The digital transition entails more than the near term problem of getting enough content and distribution to stimulate demand that will move consumers digital content. In the

rush to get TV sets in to people's homes, public policy must not stunt the broader prospects of digital TV media. The FCC is being urged to do just that by various segments of the industry. In the Broadcast flag proceeding, a small cabal of private companies proposes a technology authorization process that will chill innovation and undermine competition. In the Plug and Play proceeding, the Commission is being urged to adopt a standard that excludes PCs from being video display devices. Interactive services are excluded, ensuring that cable operators continue to exercise market power of Internet-based applications.

## **CONCLUSION**

When all inter-industry squabbling, foot dragging, and disregard for the public interest is put in perspective, there should be little wonder why the transition to digital TV is stuck in neutral. The public interest, the consumer interest, has been totally ignored in the process because the consumers' trustee, the FCC, has been asleep at the switch.