

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054**

DTV Consumer Education Initiative)

MB Docket No. 07-148

**COMMENTS OF THE
INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE**

To the Commission:

The Independent Telephone and Telecommunications Alliance (ITTA) files these comments in response to the Further Notice of Proposed Rulemaking (FNPRM)¹ issued by the Commission in the above-captioned docket. The Commission seeks comment on whether it should require all eligible telecommunications carriers (ETCs) to provide notice of DTV transition to all of their customers. For the reasons set forth herein, ITTA opposes the expansion of current DTV education requirements.

ITTA previously opposed proposals to require recipients of Lifeline and Link-Up funds to provide monthly bill inserts regarding the DTV to Lifeline and Link-Up subscribers. ITTA stated that proposal, while well-intentioned, was neither an appropriate nor effective way to ensure consumers are informed about the DTV transition, and moreover implicated substantial jurisdictional and First Amendment concerns. The Commission adopted such a requirement in March 2008, reasoning, in part, that “[i]n a survey on the DTV transition, the GAO found that over-the-air households are more likely to have lower incomes than cable or satellite households and

¹ *DTV Consumer Education Initiative: Order on Reconsideration and Further Notice of Proposed Rulemaking*, MB Docket No. 07-148, FCC 08-119 (rel. Apr. 23, 2008) (FNPRM).

that approximately 48 percent of exclusive over-the-air viewers have household incomes less than \$30,000.”² ITTA submits that expansion of the requirement to cover all customers, including those whose household income exceeds \$30,000, is not justified, and suffers from the same legal infirmities as have been articulated previously to the Commission in this regard.

ITTA members provide service to more than 31 million customers in 45 states, primarily in rural and suburban markets. ITTA appreciates the Commission’s concern that no one is left behind when the transition takes place. Requiring ETCs to provide DTV educational material to all customers, whether by bill insert, bill language, or separate notification, will likely do more to confuse consumers, rather than educate them. Such a proposal would place an undue, and likely unlawful, burden on the members of ITTA.

As stated previously, it is impossible to minimize the jurisdictional and First Amendment issues raised by a proposal to require telecommunications carriers to send bill inserts regarding DTV transition; comments filed previously by US Telecom and Verizon³ have addressed this issue competently. It is difficult to comprehend that such a measure is narrowly tailored, given the possibility of other far more effective and logical channels by which to educate consumers on the DTV transition, such as the numerous ads currently airing on broadcast television, or via direct mailings undertaken by broadcasters who can obtain public mailing lists similar to those used by other commercial entities such as coupon distributors or local merchants.

² *DTV Consumer Education Initiative: Report and Order*, MB Docket No. 07-148, FCC 08-56, at para. 57 (rel. Mar. 3, 2008) (DTV Order).

³ *Comments of the United States Telecom Association* (filed Sep. 17, 2007) and *Comments of Verizon* (filed Sep. 17, 2007).

Equally troubling to ITTA member companies is the undue cost and burden that will be imposed upon them should the proposal be adopted. The Commission has already recognized partially the issue of potential financial impact, first by modifying the original “bill insert” proposal to allow “billing language,”⁴ and again by permitting carriers to send separate notifications, for example, by postcard.⁵ ITTA members individually serve between 50,000 and 14 million access lines, and rough estimates of the cost of printing and mailing the inserts alone run into the hundreds of thousands of dollars over the duration of the program for certain of ITTA members. Even if a carrier opts for bill language methods, that carrier incurs opportunity costs by being precluded from using that space for other purposes. Finally, in addition to the production, postage, and opportunity costs, there will likely be additional costs incurred as customer call centers field calls from consumers with questions. Customers are likely not to understand why their local telecommunications provider is sending them information regarding DTV. Many of these customers will, in turn, call their provider. Moreover, it should be expected that some of these customers will become unsatisfied when they realize that their local phone company sent them information that has nothing to do with their phone service. ITTA identified these concerns when only Lifeline and Link-Up customers were to be targeted; the costs would increase substantially and unjustifiably if all customers must be notified.

As stated above, ITTA understands and is sympathetic to the Commission’s challenge in ensuring that consumers are properly educated regarding the DTV transition. Current efforts underway by broadcasters, electronics manufacturers, and retailers are the

⁴ See, DTV Order at para. 53.

⁵ FNPRM at para. 17.

proper channels for reaching the people most likely to be affected by the transition. Requiring telephone companies to participate in efforts such as those proposed is not the right approach. In addition to implicating core First Amendment rights, it will be costly and lead to disruptive customer confusion. For the reasons stated above, the Commission must reject the proposal set forth in the FNPRM.

Respectfully submitted,

s/ Joshua Seidemann

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