



Pillsbury
Winthrop
Shaw
Pittman^{LLP}

Special Advisory to Broadcasters
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Communications Broadcast Advisory

Alert: FCC Adopts New DTV Consumer Education and Reporting Requirements

On March 3, the FCC released a Report and Order outlining new requirements for the education of consumers regarding the February 17, 2009 transition to digital television service. This Advisory focuses on the Report and Order's specific ramifications for television broadcasters. While no requirements for radio broadcasters are being mandated, the Commission strongly encourages radio broadcasters to participate in the education of the public on the transition to digital television.

Television broadcasters must choose from one of two (commercial stations) or three (noncommercial stations) options for airing educational messages about the transition. Broadcasters will be required to file a new form, FCC Form 388, on which they will indicate their choice of the options, and then report on their compliance with that option in quarterly filings thereafter.

These education and reporting requirements will end on March 31, 2009 for most broadcasters. However, stations that have requested or been granted authority to serve less than their full authorized service areas after February 18, 2009 will be required to extend their educational and reporting efforts until their authority expires or their request has been withdrawn or denied.

Option One (Available to Both Commercial and Noncommercial Educational Television Stations)

Broadcasters choosing Option One must air a mixture of public service announcements (PSAs) and crawls with increasing frequency over the next year. Both a station's analog and primary digital channel will be required to separately abide by this requirement. Between the effective date of the new requirements and April 1, 2008, a station choosing this option must air one transition-related PSA and one crawl during each "quarter" of each day. After April 1, 2008, the requirement will increase to two PSAs and two crawls per quarter per day, and increase again to three of each per quarter per day on October 1, 2008. By "quarter,"

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the Commission means the four time periods that fall between 6:01 am and 12:00 pm; 12:01 pm and 6:00 pm; 6:01 pm and 12:00 am; and 12:01 am and 6:00 am. At least one of the required PSAs and one of the required crawls each day must air during primetime hours (between 8:00 pm and 11:00 pm in Eastern and Pacific time zones, and between 7:00 pm and 10:00 pm in Mountain and Central time zones).

We note that the effective date of the new requirements is likely to occur after April 1, 2008 as the Report and Order has not yet been published in the Federal Register, nor has OMB approved Form 388 for use. As a result, the pre-April 1 requirements will likely be moot by the time the FCC's Report and Order becomes effective.

With respect to crawls, the FCC mandated that they not block any closed captioning or emergency information, nor should closed captioning or emergency information block crawls. Crawls must be run during programming for no less than 60 consecutive seconds in the same language as the majority of the station's programming, and must run across the top or bottom of the screen. The crawls must convey that full-power analog broadcasting will end on February 17, 2009 and that analog-only television sets may not be able to receive the signal of the station the viewer is watching after that date if viewers do not take appropriate actions. The crawls should also indicate where viewers can retrieve more information via telephone or internet regarding the transition. The FCC suggested the following sources of information as possible resources:

- Calling the station at a provided telephone number
- Visiting www.DTV.gov
- Retrieving information about a converter box at www.DTV2009.gov
- Calling the NTIA at 1-888-DTV-2009
- Providing contact information for the DTV Transition Coalition

With respect to the required PSAs, the FCC has required that all transition-related PSAs be closed-captioned, be at least 15 seconds in length, and provide the information identified above for the crawls. PSAs must also give more detail than the crawls regarding the necessary actions a viewer must take to continue watching the station, distinguishing between Over The Air (OTA) viewers and those who receive their signal from a Multichannel Video Programming Distributor (MVPD). PSAs should also, where appropriate, provide additional details on that station's transition. Such information may include channel changes, changes in a station's service area, the addition of multicast or HD channels, or timing of that process. Broadcasters are expected to continue running PSAs on other community issues, and are instructed not to replace those PSAs with the transition-related PSAs.

Option Two (Available to Both Commercial and Noncommercial Educational Television Stations)

This option is the alternative plan suggested by the National Association of Broadcasters. Broadcasters who choose Option Two must air an *average* of sixteen transition PSAs per week, and an *average* of sixteen crawls, snipes, and/or tickers per week. Such PSAs, crawls, snipes or tickers **must** air between 5:00 am and 1:00 am. Over the course of each calendar year, one fourth of all PSAs, crawls, snipes, and/or tickers must air between 6:00 pm and 11:35 pm Eastern and Pacific, and between 5:00 pm and 10:35 pm Central and

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Mountain. As with Option One, these requirements will end for most stations on March 31, 2009, will apply separately for each station's analog and primary digital channel, must be closed captioned, and must not replace the airing of other PSAs addressing local community issues.

For Option Two, PSAs must be at least 30 seconds in length. However, the FCC indicated that a Station could air two PSAs of at least 15 seconds in length each as substitute for a single 30 second PSA. NAB has developed PSAs that may assist stations in meeting this obligation.

Stations choosing this option must also air at least one thirty-minute informational program on the transition between 8:00 am and 11:35 pm at least one day prior to the digital transition date of February 17, 2009. Again, to assist broadcasters, the NAB has expressed its intent to create such a 30-minute program in both English and Spanish and make it available to all broadcasters, including those who are not members of NAB.

Additionally, all stations choosing Option Two must begin a 100-Day Countdown on November 10, 2008. Each station must air at least one of the following each day:

A Graphic Display, superimposed during programming with a countdown of days until the transition, including toll-free contact numbers and/or websites for more information, lasting 5 to 15 seconds.

An Animated Graphic, providing the same information as a Graphic Display.

A Graphic and Audio Display, providing the same information as the Graphic Display or Animated Graphic, but with the addition of sound.

Longer Form Reminders, explaining the transition and varying between 2 minutes and 5 minutes in length. The FCC recommends an "Ask the Expert" segment or a newscast featuring a "DTV Expert" if stations choose this option.

Option Three (Available to Noncommercial Educational Television Stations ONLY)

This option is available only to noncommercial broadcasters. Under this option, proposed by the Association of Public Television Stations, broadcasters must air 60 seconds per day of consumer education material on both the analog and primary digital channel. These on-air educational spots must be shown at variable times throughout the day, but at least 7.5 minutes per month must be shown between 6:00 pm and 12:00 am.

On May 1, 2008, this time requirement will double to 120 seconds, with at least 15 minutes airing between 6:00 pm and 12:00 am. On November 1, 2008, the time requirement will increase again to 180 seconds per day with at least 22.5 minutes per month being shown between 6:00 pm and 12:00 am. As with the other options, these PSAs must be closed captioned, should not replace the broadcast of regular PSAs, and will end for most broadcasters on March 31, 2009.

Like Option Two, broadcasters choosing Option Three must air a 30-minute informational program between 8:00 am and 11:35 pm at least one day prior to February 17, 2009.

Reporting Requirements

Broadcasters will be required to report their educational efforts on the new FCC Form 388. The current, unapproved version of this form is attached at the end of this Advisory for your review. For each quarter,

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broadcasters must complete the form, file it electronically in the Media Bureau's 07-148 "DTV Consumer Education Initiative" Docket, and place it in their main station and online public inspection files by the tenth day of the succeeding calendar quarter. The first form is intended to cover the first quarter of 2008 and must be filed no later than April 10, 2008. As noted above, however, the requirement that the form be filed may not yet be effective by that time. The last report for most stations (except those who have been granted or who have pending requests to serve less than their full authorized service areas) will cover the first quarter of 2009, and must be filed by April 10, 2009. Stations with the above-mentioned extensions must continue their educational efforts, and therefore continue to report these efforts on FCC Form 388, up to and including the quarter in which their extension authority expires or their request for extension has been dismissed or withdrawn.

Low-Power, Class A, and Translator Stations

No educational or reporting requirements are being mandated for Low Power, Class A, or TV Translator stations at this time. However, the FCC strongly urges those stations to educate viewers on the transition. Specifically, these stations should present information to viewers on their intention, if applicable, to continue with analog broadcasts, and educate consumers on the necessity for converter boxes with analog pass-through capabilities in order to continue watching the analog station after February 17, 2009.

Other Information

The FCC retained the right to increase these educational requirements for individual stations, regions, or on a nationwide basis if it finds that the overall progress of consumer education has been insufficient.

If you have any questions about your DTV educational obligations, please contact any of the members of our Communications Practice Section.

Live Links

Digital Television, Federal Communications Commission, Countdown to DTV Transition

TV Converter Box, National Telecommunications and Information Administration, U.S. Department of Commerce

For further information, please contact:

Richard R. Zaragoza (bio)
Washington, DC
+1.202.663.8266
richard.zaragoza@pillsburylaw.com

Christine A. Reilly (bio)
Washington, DC
+1.202.663.8245
christine.reilly@pillsburylaw.com

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**APPENDIX C
DTV Consumer Education Quarterly Activity Report**

Instructions

This form should be used to provide the Federal Communications Commission (FCC) with information pertaining to all station activity to educate consumers on the transition to digital television (DTV). All stations should log DTV Transition-Related Public Service Announcements (PSAs) and other DTV activities using the appropriate house (identification) numbers. These logs or records should include the date and time that each DTV activity occurred. This form must be filed in Docket Number 07-148 as Document Type: REPORT, and placed in the station's Public Inspection File. This form must continue to be filed for each quarter in which a station has DTV Transition education obligations.

Station Call Sign(s)

Report reflects information for quarter ending (mm/dd/yy)

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Have you opted to comply with Option One, Two, or Three (once elected, this choice may not change)?

Option One (A and D)
 Option Two (B and L)
 Option Three (C and D)

Over the past quarter, have you fully complied with the requirements of this option?

Yes
 No

Simulcasting

Are you simulcasting on your Analog channel and your primary Digital stream?

Yes
 No

If **YES**, complete only one form for both. If **NO**, complete a form for your Analog channel and a second for your primary Digital stream.

<u>Call Sign</u>	Channel Numbers Analog _____ Digital _____	Community of License			
		City	State	County	Zip Code
Licensee					
Above, circle the Channel Number(s) to which this form applies.		Nielsen DMA	World Wide Web Home Page Address		
Facility ID Number	Previous Call Sign (if applicable)	License Renewal Expiration Date (mm/dd/yy)			

		<table border="1"><tr><td data-bbox="1031 201 1089 262"></td><td data-bbox="1089 201 1148 262"></td><td data-bbox="1148 201 1206 262"></td><td data-bbox="1206 201 1265 262"></td><td data-bbox="1265 201 1323 262"></td><td data-bbox="1323 201 1382 262"></td></tr></table>						

Section A (For broadcasters electing Option One)

Stations that elect Option One must place a copy of this form on the station's public website, if such exists.

On its analog channel, and its primary digital stream, a station must air one transition PSA, and run one transition crawl, in every quarter of every day. This requirement will increase to two PSAs and crawls per quarter per day on April 1, 2008, and to three of each on October 1, 2008. Stations are required to air PSAs or crawls at various times in any given day part, and at least one PSA and one crawl per day must be run during primetime hours. On-air education must not contain inaccurate or misleading statements and must be provided in the same language as a majority of the programming carried by the station. PSAs must be at least 15 seconds, and closed-captioned. Crawls must run during programming for no fewer than 60 consecutive seconds across the bottom or top of the viewing area (See rules for additional details).

Have you aired a sufficient number of eligible PSAs (28, 56, or 84 per week, depending on the reporting period) during the correct quarters of the day?

Yes**No**

Have you aired a sufficient number of eligible crawls (28, 56, or 84 per week, depending on the reporting period) during the correct quarters of the day?

Yes**No**

Section B (For broadcasters electing Option Two)

On its analog channel, and its primary digital stream, a station must run an average of 16 transition-related PSAs and 16 transition-related crawls, snipes, and/or tickers per week in each quarter, all between the hours of 5 a.m. and 1 a.m. . It must also run one 30 minute DTV-related informational program once, and one 100-Day Countdown piece per day for the 100 days prior to the conclusion of the transition. Comment boxes MUST be used to describe these compliant activities (See rules for additional details).

Total Number of Eligible DTV Transition-Related PSAs and Crawls, Snipes, and/or Tickers (CSTs) Run -- Last Quarter

How many DTV PSAs and CSTs did your station run between 5:00 a.m. and 1:00 a.m. last quarter?

Total 5:00 a.m. to 1:00 a.m. PSAs

Total 5:00 a.m. to 1:00 a.m. CSTs

For informational purposes only, how many DTV PSAs and CSTs did your station run in the last quarter from 6:00 a.m. to 9:00 a.m.?

Total 6:00 a.m. to 9:00 a.m. PSAs

Total 6:00 a.m. to 9:00 a.m. CSTs

For stations located in the Eastern or Pacific Time Zone, how many DTV PSAs and CSTs did your station run in the last quarter from 6:00 p.m. to 11:35 p.m. (must average at least 4 per week)?

Total 6:00 p.m. to 11:35 p.m. PSAs

Total 6:00 p.m. to 11:35 p.m. CSTs

For stations located in the Central or Mountain Time Zone, how many DTV PSAs and CSTs did your station run in the last quarter from 5:00 p.m. to 10:35 p.m.(must average at least 4 per week)?

Total 5:00 p.m. to 10:35 p.m. PSAs

Total 5:00 p.m. to 10:35 p.m. CSTs

Comments (add additional sheets where necessary):

30 Minute Educational Programs – Last Quarter

How many 30 minute, DTV-related informational programs did your station run during the quarter? At least one such program must be run between the hours of 8:00 a.m. and 11:35 p.m., prior to February 17, 2009.

Total number of 30 Minute Informational Programs

Comments (add additional sheets where necessary):

100-Day Countdown Eligible Pieces – Last Quarter

Beginning on November 10, 2008, all stations participating in Option Two will engage in special 100-Day “Countdown to DTV” activities. Stations must execute a minimum of one “Countdown to DTV” on-air activity per day during the 100 days leading up to February 17, 2009. During the last quarter, how many of each eligible 100-Day “Countdown to DTV” pieces did your station run?

_____ *Graphic Displays*

_____ *Animated Graphics*

_____ *Graphic and Audio Displays*

_____ *Longer Form Reminders*

Comments (add additional sheets where necessary):

Section C (For Noncommercial broadcasters only)

On its analog channel, and its primary digital stream, a station must air 60 seconds per day of on-air consumer education, in variable timeslots, including at least 7.5 minutes per month between 6 pm and 12 am. Beginning May 1, 2008, this requirement doubles, and beginning November 1, 2008, it increases again, to 180 seconds per day and 22.5 minutes per month between 6 pm and midnight. It must also run one 30 minute transition education piece once (See rules for additional details).

Have you aired a sufficient amount of consumer education (60, 120, or 180 seconds per day, depending on the date) during each day this quarter?

Yes

No

Have you aired a sufficient amount of consumer education number of eligible crawls (7.5, 15, or 22.5 minutes per month, depending on the date) between 6:00 p.m. and 12:00 a.m. this quarter?

Yes

No

30 Minute Educational Programs – Last Quarter

How many 30 minute, DTV-related informational programs did your station run during the quarter? The comment box may be used to describe this activity. At least one such program must be run between the hours of 8:00 a.m. and 11:35 p.m., prior to February 17, 2009.

Total number of 30 Minute Informational Programs

Comments (add additional sheets where necessary):

Section D (For all broadcasters)**Additional DTV On-air Initiatives – Last Quarter**

Did your station run additional on-air initiatives (such as news reports, town hall meetings, etc.) during the quarter? The comment box may be used to describe these initiatives.

Yes No

Comments(add additional sheets where necessary):

Station Web Site Additional Activity Related to the DTV Transition – Last Quarter

Does your station have a Web site? Yes No

If YES, did your station provide additional DTV related information or activities on that Web site? The comment box may be used to describe what was posted on the station's Web site.

Yes No

Comments(add additional sheets where necessary):

Additional DTV Outreach Efforts -- Last Quarter

Check all of the DTV related activities listed below that your station engaged in over the last quarter. The comment box may be used to describe this activity.

Speaking Engagements

Comments(add additional sheets where necessary):

Community Events

Comments(add additional sheets where necessary):

Other (describe)

Comments(add additional sheets where necessary):

This comment box may be used to include other comments or information about your station's DTV activity over the last quarter.

Comments(add additional sheets where necessary):

STATION CERTIFICATION

I certify that the statements in this document are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Name of Licensee (print):

Signature:

Date: