

**Before the
National Telecommunications Information Administration
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation and Administration)	Docket Number: 060512129-6129-01
of a Digital-to-Analog Converter Box)	RIN 0660-AA16
Coupon Program boxes)	
)	

**Comments of
Consumers Union
Consumer Federation of America
Free Press**

I. Summary

Consumers Union¹, Consumer Federation of America², and Free Press³ respectfully submit the following comments in response to the National Telecommunications and Information Administration’s notice of proposed rule making to implement and administer a coupon program for digital-to-analog converter boxes. We urge NTIA to withdraw its proposal to limit eligibility to over-the-air-only households and to reject income-eligibility limitations.

¹ Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the state of New York to Provide consumers with information, education and counsel about good, services, health and personal finance, and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life for consumers. Consumers Union's income is solely derived from the sale of *Consumer Reports*, its other publications and from noncommercial contributions, grants and fees. In addition to reports on Consumers Union's own product testing, *Consumer Reports*, with more than 6.5 million print and online subscribers, regularly, carries articles on health, product safety, marketplace economics and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

² The Consumer Federation of America is the nation’s largest consumer advocacy group, composed of over 280 state and local affiliates representing consumer, senior, citizen, low-income, labor, farm, public power and cooperative organizations, with more than 50 million individual members.

³ Free Press is a national nonpartisan organization with over 200,000 members working to increase informed public participation in crucial media policy debates.

While we are as or more concerned than anyone that low-income consumers or those who rely solely on OTA reception remain able to receive broadcast signals without incurring unreasonable costs, we do not believe the converter box program can or should involve restrictive eligibility requirements. NTIA lacks statutory authority to impose either limitation. We further urge NTIA to implement and design the coupon program using technology and other means to ensure that it receives timely information on coupon redemption rates and can evaluate any additional funding needs prior to the statutory deadlines for coupon application. We also urge NTIA to seek additional funding from Congress beyond the statutory cap of \$1.5 billion to implement an effective coupon and consumer education program that will facilitate a smooth transition to digital television and to seek additional provisions to support the transition and avoid consumer misinformation and disinformation.

II. NTIA Does Not Have Authority to Restrict Eligibility to Over-the-Air Households

a. The Deficit Reduction Act of 2005 (the Act) does not provide NTIA with statutory authority to restrict eligibility for converter box coupons to over-the-air-only households or by income.

NTIA proposes to limit eligibility for converter box coupons solely to over-the-air-only (OTA-only) television households—those that do not subscribe to cable or satellite video services. NTIA lacks any statutory authority, express or implied, to restrict eligibility.

Consumers Union estimates that as many as 45 million televisions sets owned by some 25 million cable and satellite households are not connected to subscription video services but *are* used for viewing broadcast television.⁴ By limiting coupon eligibility to OTA-

⁴ Mark Cooper, *Estimating Consumer Costs of a Federally Mandated Digital TV Transition; Consumer Survey Results*, Consumer Federation of America & Consumers Union, June 2005, available at http://www.hearusnow.org/fileadmin/sitecontent/DTV_Survey_Report_Final_6-29-05.pdf

only households, NTIA therefore denies coupon program access to an additional 25 million households that Congress directed it to serve.

The plain language of section 3005 of the Deficit Reduction Act makes clear that converter box coupons shall be made available to *any* household requesting the service without limitation based on household income, subscription to any video service, or any other factor except for compliance with the statutorily specified application period.

First, Sec. 3005 states that NTIA shall “implement and administer a program through which *households* in the United States may obtain coupons that can be applied toward the purchase of digital-to-analog converter boxes.”⁵ “Household” was preceded neither by “eligible” nor any other modifier, making clear that the program is available to all households for any televisions used to receive over-the-air transmissions. In fact, neither “eligible” nor “eligibility” appears anywhere in Section 3005 in the Act, except with respect to the types of converter boxes to which the coupons are applicable and with respect to supplemental funding that NTIA may seek. Yet the NPRM contends that Section 3005 authorized NTIA to implement and administer a program through which “eligible U.S. households” may obtain coupons.⁶ NTIA’s incorrect citation of the law does not change the fact that Congress did not give NTIA authority to apply eligibility restrictions on the program.

⁵ § 3005, P.L. No. 109-171, The Deficit Reduction Act of 2005, (Feb. 8, 2006) (emphasis added).

⁶ *Request for Comment and Notice of Proposed Rules to Implement and Administer a Coupon Program for Digital-to-Analog Converter Boxes* (NPRM), Fed. Reg. Vol. 71, No. 142, July 25, 2006, at 42068. The NPRM states that “[S]ection 3005 of the Act directs NTIA to implement and administer a program through which *eligible* U.S. households may obtain a maximum of two coupons . . .” (emphasis added). The language of Section 3005 of the Act does not include the word “eligible.” (“The Assistant Secretary shall implement and administer a program through which *households* in the United States may obtain coupons that can be applied toward the purchase of digital to analog converter boxes.” §3005(a)(1).

Section 3005(c)(1) establishes the only limitations on the program intended by Congress. Under that subsection, entitled “Limitations,” the Act identifies only three program limitations: a two-coupon-per-household maximum; a “no combinations” requirement; and a time limitation on coupon validity. By expressly identifying Section 3005(c)(1) as “limitations,” omitting any reference to either income or cable/satellite subscription as limitations, and omitting any language that would have provided NTIA with authority to set additional limitations, Congress made clear that these are the only program limitations that apply. Because Congress identified with specificity the limitations it intended, no others can be construed.

b. The legislative history of the Act demonstrates clear congressional intent to make digital-to-analog converter box coupons available to any household that wants one.

While NTIA correctly concludes that Congress intended to limit eligibility for the coupons to television sets unconnected to cable and satellite,⁷ it errs in relying on language in the Conference Report⁸ (the Report) accompanying the Deficit Reduction Act to find Congressional intent to limit the coupon program solely to OTA-only households. A more careful evaluation of the Report results in the opposite conclusion.

The Report demonstrates clear congressional intent to make converter box coupons available to any requesting household without regard to income or subscription to cable/satellite service. The Report states:

⁷ NPRM at 42068.

⁸ H.R. Rpt. No. 109-362, Conference Report to Accompany S.1932, The Deficit Reduction Act of 2005, Dec. 2005, at 201-02.

“To help consumers who wish to continue receiving broadcast programming over the air using analog-only televisions not connected to cable or satellite service, the bill authorizes NTIA to create a digital-to-analog converter box assistance program.”⁹

It is important to note that the report language does not limit the purpose to helping only those consumers who rely solely on over-the-air television for the broadcast viewing. Instead, the language clearly states congressional intent to provide any consumer with unconnected TV sets with up to two coupons.

During pre-enactment hearings in both the House Energy and Commerce Committee and the Senate Committee on Commerce, Science and Transportation, Congress heard testimony about the number unconnected sets in U.S. households both in OTA-only households as well as in cable and satellite households.¹⁰ Therefore, both committees were well aware that unconnected sets are found in both types of households. Testimony was also heard regarding the number of low-income households that were OTA-only viewers.¹¹ Because Congress had ample documentation about the large number of unconnected television sets in all types of U.S. homes, if it had intended to cover some but not all of those sets, it would have stated so. Instead, the Report clearly states the Act’s purpose is intended to aid households with *unconnected* sets, without regard to whether that household subscribes to cable or satellite service. Therefore, the only

⁹ *Id.*

¹⁰ See Mark Goldstein, *Digital Broadcast Television Transition, Estimated Cost of Supporting Set-top Boxes to Help Advance the DTV Transition*, Testimony before the House Subcommittee on Telecommunications and the Internet, February 2005, GAO-05-258T at 8; Testimony of James Yager, Barrington Broadcasting Company before the House Subcommittee on Telecommunications and the Internet, Feb. 2005 at 7; See also Gene Kimmelman, Testimony before the House Subcommittee on Telecommunications and the Internet regarding the Staff Discussion Draft of the Digital Television Transition Act, May 2005 at 3; Testimony of Gene Kimmelman, before the Senate Committee on Commerce, Science and Transportation Hearing on the Digital Television Transition, July 2005 at 2.

¹¹ Goldstein, Feb.2005 at 8.

limitation suggested by the Report is that coupons may *not* be used to buy converter boxes for televisions that are *already* connected to a subscription video service. NTIA cannot go further.

NTIA relies on the Report's statement that "only 14.86 percent of U.S. television households relied exclusively on over-the-air transmissions" as support for its proposed eligibility limitation.¹² In fact, the Report cites that figure merely to support its prediction that such households are the most likely to want a coupon; it does not confer authority or demonstrate intent to limit eligibility solely to those households. Further in the Report, Congress identifies how it intends to limit the scope of the program: "*The coupon structure of the program and requiring consumers to make affirmative requests for coupons takes into account that many consumers will neither need nor want a subsidized converter box.*"¹³ This language makes clear that Congress' intent was to make all households with unconnected sets eligible for the coupons, while limiting the scope of the program in other ways such that only those who most want a coupon are likely to request them. The structure of the program includes overall funding limits, affirmative coupon requests, a coupon redemption program rather than subsidies at retail, limitations on the coupon application period, expiration dates for the coupons, and creation of a first-come-first-served program. The report language, then, makes clear that, though all households with unconnected sets are eligible, these structural components establish participation barriers that promote self-selection so that only those who most want or need a coupon will apply for one. In fact, NTIA's NPRM itself notes that the

¹² NPRM at 42068.

¹³ H.R. Rpt. No. 109-362 at 202.

Report included no requirements for any household eligibility criteria.¹⁴ That is because Congress intended self-selection driven by the program's structure, not eligibility criteria, to limit the scope of the program.

Public press releases issued by the House Energy Commerce Committee, upon introduction of the draft bill and following Committee passage of that bill, without modification of the coupon program provisions, make clear the Committee's intent to cover all households. The Committee press release describing the Digital TV Transition Act prior to Committee consideration stated, "Each household, *regardless of whether it subscribes to cable or satellite service*, may obtain up to two coupons that can be applied towards the purchase of a digital-to-analog convert box."¹⁵ The coupon provisions of the draft remained unchanged in the Committee-passed version of the bill, which a subsequent Committee press statement contended directed NTIA to "send up to two converter box coupons to *any* consumer" that requests one.¹⁶ Notably, the funding levels and program structure provisions included in the Deficit Reduction Act of 2005 mimic nearly verbatim the provisions of the original House-passed bill, supporting the same congressional intention to offer coupons to all households. The primary difference between the House-passed bill and the final Act is the funding level—the Act provides

¹⁴ NRPM at 42068. ("We note that neither the Committee of Conference's Join Explanatory Statement (the Manger's report) includes such a requirement regarding economic need *or other factors* that might be related to a household's eligibility to receive coupons.") (emphasis added).

¹⁵ Barton, *Upton Unveil Digital TV Transition Act*, Press Release, October 2006, (emphasis added), http://energycommerce.house.gov/108/News/10212005_1694.htm.

¹⁶ *Committee Sets Date for Digital Television Transition*, Press Release, October 2006 (emphasis added), http://energycommerce.house.gov/108/News/10262005_1698.htm

\$510 million more in funding, suggesting an even broader program than passed by the House.¹⁷

Evaluating the plain language of the Act, the Report, and the legislative history, it is clear that NTIA, by limiting eligibility to over-the-air-only households has acted outside the scope of congressionally delegated authority.

III. As a Matter of Policy, NTIA Should Not Restrict Coupon Program Eligibility Based on Over-the-Air-Only Status or Income.

Even if, for the sake of argument, Congress authorized NTIA to restrict coupon eligibility to over-the-air-only households or based on income, such a policy would be inconsistent with the purposes of the Act to facilitate the transition to digital television.¹⁸ Congress set a hard-date for the transition to digital television and provided for partial consumer compensation for the costs of converter boxes in part because consumers have been slow to demand digital television due to a variety of factors including cost and quality and availability of digital programming, among others. The transition therefore, is government- not consumer-driven. Normally, technology adoption occurs over a period of time as quality improves and equipment becomes more affordable. In the case of the digital transition, however, consumers are forced to adopt new technology, whether they demand it or not. The result is that consumers are forced to expend their own resources merely to keep their otherwise perfectly good television sets working to facilitate a transition they did not ask for—a necessity that is likely to engender significant consumer discontent with the transition. We estimate that the direct out-of-pocket costs for the converter boxes that consumers must buy

¹⁷ §3005(c)(3).

¹⁸ See Findings, Digital Television Transition Act, House Energy and Commerce Committee Print.

exceed \$3.5 billion nationally.¹⁹ The Act addresses this concern by providing for partial compensation to consumers who receive coupons to ease the pain of the transition on consumers who most want them in order to increase consumer acceptance of the transition. By limiting availability of coupons to consumers based on arbitrary factors, NTIA frustrates the goal of Congress and jeopardizes consumer acceptance of the transition.

Congressional wisdom in making coupons available to all households reflects the administrative challenges of restricting eligibility and the difficulties in objectively determining “need.” First, restrictions on eligibility to OTA-only households are unenforceable absent significant data collection from cable and satellite providers.²⁰ NTIA’s proposes to so limit eligibility without collecting such data and instead proposes self-certification of OTA-only status, creating an eligibility barrier without meaning since NTIA has no reliable means of verifying OTA-only status. Moreover, the result of self-certification will be that honest consumers who want a coupon because of their individual circumstances, but who also subscribe to cable or satellite will not seek a coupon. Those who dishonestly self-certify, however, *will* receive a coupon. The result confounds Congressional intent to allow consumers to self-select based on their own perceptions of need without regard to whether they subscribe to cable or satellite services. Second, NTIA’s proposed OTA-only restriction and its contemplated income restriction are ill-fated attempts to determine need.

Though OTA-only households are disproportionately lower income relative to cable and

¹⁹ Cooper, *supra* note 4.

²⁰ See Goldstein, Feb. 2005 at 11-12 (“Because no list of [OTA-only] households exists limiting a subsidy in this manner will require determining who the over-the-air households are—a task that could pose administrative challenges. One possible approach to identifying [them] is to first identify cable and satellite subscribers . . . The process of combining cable and satellite subscriber information into a comprehensive list could be a highly challenging task.”)

satellite homes, nearly 30 percent of cable and satellite homes have incomes of \$30,000 or less,²¹ a population that would be excluded from participation under NTIA's current proposal. Further, many OTA-only households do not buy subscription video services because they don't watch enough television to merit the cost, not because they cannot afford it.²² This demonstrates the difficulties in using arbitrary criteria for coupon eligibility as a benchmark for "need." Many consumers who do not meet the income or OTA-only limitations likely face unique circumstances that increase their need for a coupon, such as elderly persons living on a fixed incomes or families with tight monthly budgets. Such consumers who are unable to acquire a coupon may then decline to purchase a converter box in a timely manner, losing access to broadcast television offered over the publicly-owned airwaves, disrupting the transition and jeopardizing consumer acceptance of it.

Congress rightly decided that to avoid such problems, all consumers with unconnected sets would be eligible, allowing consumers to self-select based on their subjective sense of need.

Finally, by proposing eligibility limitations beyond those statutorily authorized, NTIA flouts congressional direction to minimize administrative costs in order to maximize coupon availability to consumers.²³ Setting income limitations will require NTIA to develop a costly verification program that is likely to increase administrative costs²⁴ and reduce the number of coupons that can be made available to consumers, contrary to congressional intent.

Additionally, income limitations create a series of administrative challenges, including

²¹ *Id.*, at 7-9.

²² *Id.*, at 8.

²³ H.R. Rep. 109-362 at 201 ("[E]ach additional \$40 the NTIA does not spend on administration is another coupon it can make available to consumers.")

²⁴ *See id.*, at Table 1. Administrative costs of government programs with eligibility criteria ranged from 10 to 39 percent of total program cost.

difficulty in selecting the means test itself and addressing privacy concerns of low-income households.²⁵

However, NTIA can and should target the program to populations based on OTA-only or income status and can do so without limiting eligibility of others. First, NTIA can target its educational and promotional efforts to OTA-only and lower-income households by working with governmental and non-governmental organizations that serve low-income or other vulnerable populations, such as the elderly, non-English speaking, or native-American households. Further, NTIA can focus its educational efforts on OTA-only households by working with broadcasters to air NTIA-sponsored and broadcast-industry-funded public service announcements. Though cable and satellite households also receive and watch broadcast channels, they likely spend more of their viewing time watching cable rather than broadcast networks. In addition, NTIA can further target OTA households by concentrating promotional efforts in states and areas within those states that have a disproportionate number of OTA-only households, and specifically by working with broadcasters within those states to reach their OTA-only viewers.

We concur with others commenting²⁶ in this docket that another way in which OTA can ensure that OTA-only households are receiving coupons is to simply ask about OTA-status on the application form. If NTIA adopts an electronic card-based voucher system, NTIA should be able to easily track how many of the coupons are being requested and redeemed by OTA-only households, allowing it to gauge how effective targeted promotional efforts have

²⁵ *Id.*, at 11-12.

²⁶ *See e.g.*, Comments of RadioShack Corporation.

been and transmit information to Congress if OTA-households are not taking advantage of the program.

IV. NTIA Should Ask Congress to Provide Additional Funding for Both Coupon Redemption and Consumer Education and Impose Educational Mandates on Industry Stakeholders.

a. Authorized funding for the coupon program is inadequate to allow NTIA to fulfill its statutorily mandated task.

Congress delegated a difficult task to NTIA. It authorized a program for which more than 40 million households with up to 80 million unconnected sets are eligible,²⁷ but provided funding sufficient to serve less than half of them. Therefore, NTIA faces significant challenges in implementing the program. It must widely educate consumers about a coupon program²⁸ which fewer than half of consumers will be able to use due to funding limitations and the narrow three-month application period specified in the statute. It is likely that many consumers, having learned of the program's availability will be unhappy to learn that the promoted voucher program is not available to them because the money ran out before they could apply for, or redeem their coupon. In response to that administrative difficulty, NTIA should not undertake to limit eligibility as it has proposed, but instead submit a report to Congress about the challenges of administering and promoting what Congress has promoted as an entitlement program available to all households with unconnected sets, but for which it has provided insufficient funding to serve all those it has made eligible.

Based on our 2005 estimates of unconnected sets, the true out-of-pocket costs of the transition to the program for consumers may be as high as \$3.5 billion. Other estimates have

²⁷ See Cooper, supra note 4 at 5. Up to 39 percent of all TV viewing households own up to 80 million unconnected sets used for viewing over-the-air transmissions.

²⁸ §3005(c)(2)(A).

found lower, but comparable numbers of unconnected sets. NTIA should conduct updated research to better determine the number of unconnected sets use for over-the-air television viewing in the United States today and request from Congress funding sufficient to meet that need. Adequate funding will ensure that NTIA does not engage in what is likely to be viewed as misleading promotion of the DTV coupon program; that is, NTIA will need to widely promote to consumers their eligibility for coupons, but will be forced to deny participation to many eligible consumers. With such inadequate levels of funding, even consumers who have learned enough about the transition to request coupons during the three-month application period may be denied participation. Without additional funding for coupons, NTIA will be unable to facilitate a smooth digital transition.

NTIA should therefore request that Congress authorize additional funding beyond the \$1.5 billion authorized by the Act to allow it to serve all consumers with unconnected sets and stave off consumer discontent regarding the transition. A high degree of dissatisfaction will inevitably derail the February 17, 2009 hard date for the transition, frustrating the goals of Congress in facilitating a final transition.

b. Authorized funding for Consumer Education is inadequate.

NTIA faces significant challenges in educating an eligible population of some 40 million households about the digital transition with just \$5 million in authorized funding. NTIA proposes to “collaborate with and complement” the education efforts of broadcasters, manufacturers, retailers and consumer groups. NTIA presumes however that such efforts will be undertaken and that educational efforts of those industries with a stake in the digital

transition are accurate and non-misleading. Many industry stakeholders may have incentives not to provide consumers with fair and balanced information about the implications of the DTV transition. Retailers, for example, have an incentive to promote expensive HDTV's to consumers who may want a more affordable standard definition digital television or who can only afford a low-cost analog set with a converter box. Indeed, the Consumer Electronics Associations "HDTV Turn It On" campaign heavily emphasizes the virtues of high definition digital television with far less emphasis on the converter box program which may be more appropriate solution for some consumers. Likewise, MVPD providers have an incentive to encourage cable households to pay to have unconnected sets connected to cable, and to increase connection fees as the transition date nears, rather than inform them that converter boxes are also available for their customers unconnected sets.

Moreover, NTIA should not presume, as it does, that limited-resource, non-profit public interest organizations representing target populations have the ability or desire to conduct educational efforts regarding the digital transition. Though Consumers Union is committed to using our publication and other outreach efforts to educate consumers, many public organizations have more important, pre-existing priorities consistent with their own mission and have inadequate resources to take on new projects without additional funding., Therefore it is important that NTIA not rely on non-profit organizations to deliver its educational message and establish itself as both the source of unbiased information about the transition and the leading organization in outreach and information dissemination. Currently, however, education funding provided by Congress is wholly inadequate for NTIA to conduct a general educational campaign regarding the transition, let alone to conduct targeted campaigns to

promote the coupon program to vulnerable populations. NTIA should evaluate the costs of an effective, NTIA-developed, funded and approved educational efforts and request additional funding for consumer education from Congress.

Moreover, the Act does not require any industry stakeholders to support or conduct consumer education efforts. It relies on voluntary educational efforts such industry groups have agreed to undertake. More is required. Many stakeholders who benefit directly from the digital transition also use the publicly owned airwaves either by broadcasting television or offering wireless services. Educational efforts regarding the digital transition should be made a condition for use of spectrum reclaimed by the digital transition. After evaluating specifically what industry efforts would be effective, NTIA should seek congressional authorization for a mandatory DTV consumer education obligation of such stakeholders that is subject to NTIA review for accuracy and appropriate messaging.

In addition, NTIA should seek congressional authorization of provisions that mandate educational efforts by retailers and manufacturers and require affirmative disclosures by retailers regarding the availability of the converter boxes for customers with or who seek to buy affordable analog televisions as well as the availability of a range of digital televisions (standard, enhanced & high definition). It is likewise important that retailers be prohibited from engaging in misleading practices during the transition. Given the dearth of information available to consumers, NTIA should anticipate a high degree of consumer confusion that may make them vulnerable at retail.

Congress has clearly contemplated such disclosures and obligations. Initial drafts of both the House and Senate DTV transition bills included some educational obligations for broadcasters, retailers and manufacturers that were later stripped from the legislation for germaneness reasons. And the Advanced Telecommunications Opportunities and Reform Act reported by the Senate Committee on Commerce, Science and Transportation includes anti-fraud provisions and educational requirements for broadcasters, manufacturers and retailers.²⁹ However, those provisions are included in omnibus telecommunications legislation unlikely to pass in the near term. NTIA should make recommendations to Congress on the authority and funding it needs to conduct an effective education campaign and seek passage of stand-alone legislation.

In summary, NTIA should thoroughly evaluate its funding and authorization needs and request such resources and authority from Congress that enable it to conduct an effective educational campaign and ensure consumers are protected during the transition.

V. Additional Recommendations

a. NTIA should seek flexibility from Congress regarding the time limitations imposed on coupon distribution and redemption.

Because of the uncertainties facing NTIA in implementation of the coupon program, such as its ability to effectively educate the public about the transition, NTIA should request from Congress flexibility in the coupon program distribution and redemption deadlines. To effectively implement any such program, NTIA will require the ability to extend deadlines to address lower than expected coupon applications or redemptions, outreach effort

²⁹ See e.g., §701, H.R. 5252, as reported by the Senate Committee on Commerce, Science & Transportation., June 2006.

inadequacies, failures in the coupon distribution system, difficulties at retail and other similar barriers to effective program delivery. Without such flexibility, NTIA may be unable to carry out its statutorily mandated task to facilitate the transition through administration of the coupon program.

b. NTIA should consider alternatives to paper coupons and require real-time reporting of coupon redemption.

NTIA should consider electronic card-based coupons rather than paper coupons to facilitate the transmission of real-time information on redemption rates or develop a means by which it can receive more timely information on redemption rates of paper coupons. NTIA proposes that retailers submit coupon information for redemption within 30 days after the coupon has been used to purchase a converter box. Such delayed reporting may not provide NTIA with the information it needs to evaluate redemption rates in order to timely determine whether it must transmit to Congress a statement that triggers availability of supplemental funding under §3005(c)(3). Moreover, NTIA will not have timely information regarding the performance of the program in general. This will particularly be a problem as the application deadline approaches and the expiration date for coupons nears.

c. NTIA must ensure that a variety of large, mid-size and small retailers can participate in the program to facilitate consumer participation.

As NTIA develops its retailer certification program, it must ensure that a wide variety of retailers are encouraged to seek certification to participate in the program to ensure that consumers have adequate access to participating retailers. When evaluating whether enough retailers have sought to or have been certified to participate, NTIA should take into account accessibility barriers consumers will face in redeeming coupons because of transportation

and other limitations. NTIA should consider the number of retailers in a community and their location relative to vulnerable populations in evaluating whether consumers can, as a practical matter, actually participate in the coupon program. Moreover, NTIA must ensure that certification requirements are not so costly or burdensome as to exclude smaller retailers in both rural and urban areas that may be more accessible to lower income populations, the elderly and other vulnerable populations. Likewise, NTIA should consider more timely retailer reimbursement to ensure that smaller retailers are not effectively excluded from the program by its financial barriers.

VI. Conclusion

To implement an effective converter box coupon program, NTIA should rescind its proposal to limit household eligibility based on subscription to video service or income. Instead, NTIA should seek additional funding from Congress to address the administrative and functional difficulties that limited authorized funding poses to NTIA's ability to meet its statutory mandate to facilitate the digital transition. In addition, NTIA should seek additional funding and other provisions to allow it to effectively educate a confused public about the transition and to implement the coupon program. Finally, NTIA should request that Congress enact new educational and disclosure requirements on industry stakeholders, particularly those that benefit most from the digital transition.

Respectfully submitted,

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