

**Before the
DEPARTMENT OF COMMERCE
National Telecommunications and Information Administration
Washington, D.C. 20230**

In the Matter of)
Request for Comment and Notice)
Of Proposed Rules to Implement and) Docket No. 060512129-6129-01
Administer a Coupon Program)
For Digital-to-Analog Converter Boxes)
Notice of Proposed Rulemaking)

COMMENTS OF THE GARDEN CITY GROUP, INC.

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The Garden City Group, Inc. (“GCG”), which is the premier administrator of complex and high profile financial reimbursement matters, respectfully submits comments in response to the National Telecommunications and Information Administration’s (“NTIA’s”) Notice of Proposed Rulemaking (“NPRM”) and Request for Comment regarding proposals to implement and administer the Congressionally-mandated Coupon Program for Digital-to-Analog (“DTA”) Converter Boxes. GCG lauds NTIA for examining key public policy issues that underpin this program, which will help ensure that consumers with analog television sets will be able to continue viewing TV broadcasts after the transition to digital television (“DTV”) ends by February 18, 2009. The magnitude and scope of public benefits associated with this transition makes consideration of these proposed rules particularly timely.

Implementation of the Coupon Program will be a centerpiece of the transition to DTV in the United States, as authorized under the Deficit Reduction Act of 2005 (“the Act”).¹ The spectrum at 700 MHz that will be vacated by analog broadcasters as part of the transition will free valuable airwaves for advanced wireless uses, promoting technology development and more competitive broadband options for consumers, including those in rural and underserved areas. Another critical component is the additional spectrum – 24 MHz at 700 MHz – to be made available to first responders. Other important public benefits include the ability of consumers, through more efficient digital signal technology, to receive DVD-quality pictures and numerous channels from a single broadcaster.

GCG has extensive expertise and unique qualifications in designing legal notices and administering class actions, which entail many of the same capabilities needed to ensure an efficient, accountable, timely and fair administration of the Coupon Program. GCG’s role as the leading administrator of such complex and critical matters requires the

¹ See Title III of the Deficit Reduction Act/Digital Television and Public Safety Act of 2005, Public Law 109-171, Section 3005.

company to continuously analyze ways to keep fraud, waste and abuse to a minimum and to conduct effective outreach with a broad range of stakeholders.

GCG focuses these comments on two key policy areas raised in the NPRM that are crucial to the administration of a successful program: (1) Consumer education requirements; (2) Proposed rules for the coupon program.

I. Consumer education

An Office of Management and Budget (“OMB”) cost-benefit analysis of NTIA’s proposed rules for the DTA converter box program acknowledges that “limited funds for program administration dictate the need for good management – criteria such as efficiency, effective tracking and accountability, ease of customer understanding and administration, and fairness.”² These criteria are critical for the execution of the program within the timeframes and budgetary parameters stipulated by Congress, including the administration of related consumer education.³ The NPRM seeks comments on the most effective means to address consumer education as part of the program, particularly in light of the Act’s directive that NTIA spend no more than \$5 million on education about the DTV transition and the Coupon Program. As the NPRM suggests, the limited scope of funding will require careful leveraging by NTIA, given the costs of media production and paid advertising, and will necessitate coordination with the planned consumer outreach of broadcasters, equipment-makers, retailers, consumer groups and others as part of an overall effort to ensure a timely DTV transition.

The NPRM solicits information on ways to target households that will be eligible for the Coupon Program. GCG recommends that NTIA consider the following elements for inclusion in any public information campaign it undertakes, as well as in guidance for complementary efforts that will be conducted by other stakeholders, including the administrator of an outsourced Coupon Program. The multi-disciplinary approach required for legal notice programs, in which GCG has more than 20 years of experience, provides a useful model for NTIA to examine in implementing consumer education and participating in awareness efforts in which other stakeholders will engage. These legal notice programs utilize the multi-disciplinary approach called for by the Coupon Program’s education requirements, bringing together diverse expertise in: direct marketing, targeting of public policy objectives, media outreach, advertising, direct mail, demographic analysis, video and audio production and coordination with affiliated

² See “Analysis of Benefits and Costs of the Proposed Rule for the Digital-to-Analog Converter Box Program,” Office of Management and Budget, (“OMB Analysis.”)

³ The Act authorizes NTIA to spend up to \$990 million on the coupon program from a Digital Television Transition and Public Safety Fund, which will be financed from the receipts of the FCC’s auction of the spectrum at 700 MHz that is being vacated by analog broadcasters as part of the DTV transition. This includes \$100 million for program administration. NTIA could spend up to \$1.5 billion, including \$160 million for administration, upon a 60-day notice and certification to the House Committee on Energy and Commerce and the Senate Committee on Commerce, Science and Transportation. NTIA would have to certify that the \$990 million is not sufficient to fulfill coupon requests for eligible U.S. households.

stakeholders. Successful legal notice programs, such as those administered by GCG, require drafting language and outreach materials that are: (1) easily understood by targeted audiences, (2) provide usable information that compels necessary action.

Given the varied demographics of analog TV households, this approach, which relies on state-of-the-art media research tools, provides a useful template for NTIA to examine. GCG's approach takes into account historical context; public policy considerations; the demographics, geographic location and media habits of targeted audiences; size and validity of mailing lists; time constraints, and budgetary parameters. In addition, GCG has fulfilled such requirements in multiple languages and in highly complex cases. Another overriding consideration of notice programs, which parallels that of the Coupon Program, is that notice be fair and adequate.

As the OMB Analysis stated, the structure and conduct of the Coupon Program are fundamental to achieving the intent of Congress. The analysis noted that NTIA's decision to limit the scope of the program to analog-only households "will target support in such a way as to help the needy, save program money and institute a measure of fairness."⁴

To advance important public policy goals, and based on its industry-leading expertise in effectively administering complex and high profile matters, GCG recommends that any consumer education program that NTIA undertakes regarding the DTV Coupon Program incorporate the following elements:

Wide dissemination: Educational materials must be distributed widely, and in multiple languages, to ensure that eligible households receive practical information about how to participate in the program. Education efforts must eliminate confusion as to who is eligible to participate. The Government Accountability Office ("GAO") has cited the example of the DTV transition in Berlin, Germany, in which analog-only subscribers were informed of the DTV transition through a rolling on-screen scroll via TV signals received by terrestrial television.⁵ Information sessions were also held with retailers to inform them of the transition and a consumer hotline was established, along with ads on buses and subways.

Regarding the ongoing U.S. transition, as part of the ecosystem of stakeholders who will be vital to the success of this awareness campaign, cable and satellite providers could be enlisted to inform their subscribers that they are not eligible for the program. They must be informed that they will continue to receive digitally broadcast programming after the transition concludes.

⁴ See OMB Analysis, page 5.

⁵ See Testimony Before the Subcommittee on Telecommunications and the Internet, Committee on Energy and Commerce, House of Representatives, GAO, July 21, 2004, "German DTV Transition Differs from U.S. Transition in Many Respects, but Certain Key Challenges Are Similar," Statement of Mark L. Goldstein, Director, Physical Infrastructure Issues.

The GAO has noted that “non-white and Hispanic households are more likely to rely on over-the-air television than are white and non-Hispanic households.” Further, GAO noted that “on average, over-the-air households are more likely to have lower incomes compared to cable or DBS households.” For example, while 48 percent of analog TV households have incomes under \$30,000, 29 percent of cable and DBS households have incomes below that level.⁶

The continued leadership of public TV stations is also an important resource for NTIA to utilize as part of consumer education. Public TV stations, which have taken a leadership role in rolling out digital programming, are likely to be an important part of the equation for reaching eligible households. The Association of Public Television Stations has also indicated that “other over-the-air viewers are disproportionately low-income, rural, Spanish-speaking and/or elderly viewers, all of whom are reached with public television programming, in some cases more than any other medium.”⁷

Accessibility: Consumer educational material must be available in Spanish-language format, as is now the case with some material that is available on the government’s DTV awareness Web site: www.dtv.gov. Individuals with special needs, including hearing disabilities, also must have access to meaningful and timely information to find out whether they qualify for the coupon program and, if they do, how to participate.

For example, the GAO has noted that as part of preparation for the DTV transition, the United Kingdom has formed strategic groups to raise public awareness and knowledge of the transition, with participation from government and consumer groups, broadcasters, manufacturers, and industry experts who were tasked to raise awareness and train stakeholders.⁸ In the case of the U.K., the focus has been on the most “vulnerable” populations who need assistance. Meaningful consumer education in the United States must recognize that different delivery methods will have to target specific populations. For example, a program that relied almost exclusively on Internet-based tools may potentially miss important groups of older or less economically advantaged consumers who do not rely on or have available to them computer access.

Broad education: GAO has noted that there is no master list of analog-only TV households in the United States.⁹ This makes it even more important that TV viewers be broadly educated about the impending DTV transition, to help effectively reach analog-

⁶ Id.

⁷ See Public Digital Television, The Digital Transition, <http://www.aptv.org/PTVissues/digitalTV/digitaltransition.cfm>.

⁸ See “Digital Television Transition: Issues Related to an Information Campaign Regarding the Transition,” GAO-05-940-R, September 6, 2005 (“GAO Campaign Report”).

⁹ See “Digital Broadcast Television Transition: Several Challenges Could Arise in Administering a Subsidy Program for DTV Equipment,” GAO-05-623T, May 26, 2005.

only households. GAO has pointed out that to ensure eligible recipients understand how a subsidy program will work, there is a need to “first require that information about the broader DTV transition is effectively communicated to the public.”¹⁰ Past research by GAO has indicated that many Americans still were not aware of the transition, although the Consumer Electronics Association (CEA) has since reported that awareness is increasing.¹¹

As part of a coordinated effort with other stakeholders, NTIA itself could play an important leadership role by providing information for the general public on its own Web site on how the DTV transition and the Coupon Program will function. In essence, a “branding” campaign for DTV, supported by all stakeholders in the transition, is needed in the United States to ensure a baseline of knowledge about how the transition is working. The digital “tick” logo used in the United Kingdom provides one example of how such a broad awareness campaign can be deployed. The logo shows customers the products and services designed to facilitate the digital switchover.¹²

To promote such cooperative efforts, NTIA must ensure effective, coordinated consumer outreach at all phases of the Coupon Program, including information to eliminate consumer confusion on how to find out if a household qualifies, where to buy qualifying boxes, how to install DTA converter boxes in the first place, and how to handle DTV converter boxes that do not work. NTIA, in coordination with the Coupon Program administrator, must help to bring together all key stakeholders in this process, including retailers, manufacturers, broadcasters, consumer groups, advocates for the elderly, representatives of consumers with disabilities, experts on coupon program administration, technology developers and others. By law the coupon program must begin by January 2008 and NTIA plans to award the contract for administering the Coupon Program by July 2007. In the lead-up to and in the execution of the Coupon Program, NTIA could provide leadership and support to stakeholder efforts to inform as broad a range as possible of eligible U.S. households about the DTV transition and the DTA converter box program. A “road show” approach would be useful to consider, in which multiple stakeholders (i.e., broadcasters, technology developers, retailers, the Coupon Program administrator and others) could hold “town meetings” that would demonstrate DTV technology, show how the converter boxes work and explain how the Coupon Program will be administered. The point would be to involve key local groups (i.e., local libraries, advocacy groups for the elderly, Hispanic outreach organizations),

¹⁰ See GAO Campaign Report, page 17.

¹¹ CEA and the National Cable and Telecommunications Association (NCTA) unveiled plans in April to coordinate DTV outreach, noting at the time that the efforts were expected to include public service announcements, enhanced retailer sales force education, outreach via on demand services, bilingual education, and comprehensive cable customer communication. See “CEA and NCTA Unite To Broaden Scope of DTV Education Efforts,” <http://www.ncta.com/ContentView.aspx?hiddenavlink=true&type=reltyp1&contentId=3022>.

¹² See <http://www.digitaluk.co.uk/>. Recent research from Ofcom and Digital UK found that 54% of adults recognized the logo, following Digital UK's "look for the logo" campaign.

which would in turn help to further disseminate this information to their target demographics.

DTV benefits: An important part of consumer education about this landmark technology transition must include the benefits of DTV, which will help to create incentives for participation in the coupon program. Consumers also are likely to be motivated by fears associated with the impending halt of analog TV programming. The ability of digital TV to allow viewers to receive DVD-quality pictures and multi-cast broadcast programming provides an important counterpoint to concerns about the termination of analog TV transmissions.

Ease of use: One-stop shopping must be available for prospective participants who seek information about the program and how it works, including a consolidated Web site with relevant resources and a consumer hotline for further assistance, which could be run by a private sector Coupon Program administrator. It will be essential to have consistently worded program descriptions and instructions across awareness campaigns that multiple stakeholders will run, including broadcasters, retailers, consumer groups and equipment-makers.

To this end, the firm that oversees, on a contractual basis to the federal government, the administration of the Coupon Program will play an important coordinating role, including the provision of real-time information about the progress of the coupon disbursement.¹³ A multi-stakeholder process will be crucial to ensure that all challenges related to reaching eligible households are addressed.

II. Coupon Program Logistics

To meet the underlying objectives of the Coupon Program to facilitate the DTV transition, NTIA must ensure that the administration of the program: (1) Prevents waste, fraud and abuse; (2) Entails outreach and meaningful education to eligible recipients; (3) Adheres to Congressionally mandated timelines; (4) Provides accountability to federal decisionmakers to ensure that eligible consumers are using coupons to purchase qualifying converter boxes; (5) Facilitates real-time coordination among the numerous stakeholders who will need to work together to ensure that the program is run cost-effectively, including retailers, manufacturers, consumer groups, broadcasters and others.

Serial numbers: The NPRM indicates that NTIA intends to place identifying serial numbers on the coupons. GCG believes that such efforts would help to minimize fraud and abuse by helping to limit the coupons to the two-household maximum that Congress intended.

Paper versus plastic: The NPRM further asks about other fraud prevention methods, including the potential consideration of an electronic coupon card instead of a paper

¹³ See Request for Information – Market Research for Implementation of Digital to Analog Converter Box Coupon Program, Reference-Number-noaa73106, released July 31, 2006.

coupon. There are important trade-offs from a public policy perspective that NTIA must consider when weighing a paper-based coupon approach against the use of electronic coupon cards. In general, a plastic coupon card would carry slightly higher costs than a paper-based option, although GCG, based on its experience, estimates that this cost differential would likely be, percentage-wise, in the single digits above a paper coupon program. A paper coupon would be likely to have a lower initial cost, but would require handling an increased number of lost or destroyed coupons, as well as coupon re-issues. Further, it would require more in-depth measures for fraud control. GCG stipulates, however, that these projected differentials represent rough order of magnitude estimates; the precise trade-offs that NTIA will have to address in this area will depend on the details of how this program is structured as a result of both the final rules that emerge from this NPRM.¹⁴

Among the advantages of a plastic card is that it can be customized with information, including serial numbers that would decrease fraud and abuse and increase consumer awareness about program requirements, including the types of boxes that qualify for the Coupon Program. Such identifying information is a vital element of the Coupon Program's administration to facilitate maximum participation by retailers capable of handling coupons and increasing the ease of consumer use of the coupons in the first place. Section 3005(d) of the Act provides that the term digital-to-analog converter box means "a stand-alone device that does not contain features or functions except those necessary to enable a consumer to convert any channel broadcast in the digital television service into a format that the consumer can display on television receivers designed to receive and display signals only in the analog television service, but may also include a remote control device."

Besides the ability to enhance awareness for consumers and retailers about issues such as qualifying converter boxes, manufacturers of plastic coupons have estimated in general that consumers attach a greater value to a plastic card instead of a paper coupon, which in turn increases the redemption rate of coupon promotions.¹⁵ In 2004, the federal government embraced the electronic card approach for its food stamp program, pointing to some of these same benefits as the reason it permanently moved away from paper coupons for the program. Retailers, in this case grocers, expressed a preference for electronic cards based on the increased speed at which they get paid and the extent to

¹⁴ See Request for Information: Market Research for Implementation of the Digital to Analog Converter Box Coupon Program, Question and Answers, http://www.ntia.doc.gov/otiahome/dtv/DTV_RFI_QA_081806.htm. NTIA has indicated its plans to use the information submitted in response to a Request for Information to develop a request for proposals from vendors interested in assisting the Department of Commerce with implementation of the Coupon Program.

¹⁵ See "Do Plastic Coupons Improve Direct Response?", *Integrated Solutions for Retailers* newsletter, August 2004, <http://www.storedvalue.com/ArthurBlankNews.pdf>. "Like their gift card brethren, plastic coupon cards can also accommodate graphics and images that help retailers build brand awareness and make direct response mailings stand out in a crowd."

which clerks did not have to sort and bundle paper coupons.¹⁶ Further, some estimates have noted that the cost differential of manufacturing paper coupons or cards that have stringent forgery prevention watermarks are not substantially different than the cost of plastic cards.¹⁷

However, challenges that Federal Emergency Management Agency encountered in the recent administration of its Expedited Assistance program for victims of Hurricanes Katrina and Rita underscore the importance of fraud detection and prevention methods that are specific to the unique requirements of electronic card programs, including the importance of validating the identity of participants.¹⁸

Thus, while electronic cards confer security, monitoring, ease of customer and retailer use, and other benefits, this approach is not without challenges. NTIA must take into consideration the human interface of such electronic transactions when defining the ultimate parameters of the Coupon Program. To maximize fraud prevention, the program, for example, should ensure that retailer training and implementation entails that customers using an electronic coupon are asked for identification before a card is used. (The card itself could assist in this effort by featuring the recipient's name and address on its face.) Similarly, to ensure that electronic cards are being used to purchase eligible boxes, it would be extremely useful if manufacturers are required to prominently label converter boxes that are eligible for the coupon. This would help to ensure that retailers are only processing coupons at the point-of-sale for converter boxes that are eligible for the coupon in the first place.

III. Other Issues

The NPRM asks whether NTIA should consider economic need in the eligibility requirements for coupons, which the Notice states is not required by the Committee of Conference's Joint Explanatory Statement did not require. GCG does not take a position at this time on whether economic need, defined through a criterion such as a poverty threshold, should be incorporated into the proposed rules under consideration. An important consideration for NTIA to weigh, however, is the ratio of the costs of administering the program versus the actual funds available to be administered through the coupons themselves. In other words, NTIA should not spend \$50 to give away \$40 in coupons.

¹⁶ See "Electronic Cards Replace Coupons for Food Stamps," The New York Times, June 23, 2004, <http://www.nytimes.com/2004/06/23/politics/23FOOD.final.html?ei=5007&en=0245f8214ea9d25d&ex=1403323200&partner=USERLAND&pagewanted=print&position>. "Electronic benefits have replaced food stamp coupons in all states, and more than half the states now issue electronic benefits in place of welfare checks as well."

¹⁷ See "Pier 1 Prefers Plastic Gift Cards," by Chad White, May 5, 2001, www.storedvalue.com.

¹⁸ See GAO Report, "Expedited Assistance for Victims of Hurricanes Katrina and Rita, FEMA's Control Weaknesses Exposed the Government to Significant Fraud and Abuse," February 2006, GAO-06-403T.

IV. Conclusion

The DTV transition in the United States represents a remarkable opportunity for Americans to experience the benefits of this technology switchover on multiple levels, including enhanced television viewing, more spectrum for first responders and improved options for wireless voice and broadband services. The successful implementation of the DTA Coupon Program will be a cornerstone of the conclusion of the DTV transition in a manner that is timely and equitable for all stakeholders.

GCG urges NTIA to encourage and support consumer education efforts that reduce the risk of the overall DTV transition encountering challenges in terms of lack of consumer awareness, timeliness of implementation or effectiveness of the technology that is deployed. To this end, the consumer education program must factor in the extent to which consumers are likely to turn for information to local and state government and community organizations that have not been directly engaged in DTV transition planning up until this point. Thus, information about the program and centralized resources for further assistance (i.e., a consumer hotline) should be made available not only to end user consumers, but to other stakeholders who will play a key role in ensuring that the transition goes smoothly (i.e., local councils on aging). Given the sensitivity of the timelines leading up to the final switchover date in February 2009, testing will also be an essential component of the Coupon Program to ensure that its ultimate implementation can occur with retailers, manufacturers, consumer groups and others already having trialed and demonstrated the program in key markets.

While the Act only provides NTIA with \$5 million for consumer education, the agency can leverage a far greater role in ensuring that all of these stakeholders coordinate plans for awareness and education efforts ahead of the implementation of the Coupon Program, so that the latter could be deployed with the benefit of these joint plans already under way.

We thank NTIA for initiating this proceeding to review and optimize the implementation of key components of the Coupon Program, in a way that maximizes its benefits for eligible U.S. consumers while minimizing the risk of participation for consumers, retailers, manufacturers, broadcasters and others to the largest degree that is feasible. GCG looks forward to working with NTIA to this end.