

January 18, 2006

The Honorable Kevin Martin
Chairman
Federal Communication Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Martin:

As we begin the New Year, you have an historic opportunity to put the TV policy remote control back into consumers' hands by ensuring minimum public interest obligations for digital television.

As one of your first acts as Chairman, you appointed an impressive group of 20 additional members to the FCC's Consumer Advisory Commission to be the Commission's outside experts and "to make recommendations to the Federal Communications Commission regarding consumer issues." On November 18, 2005, this newly constituted Consumer Advisory Commission, stepped forward with their first action, providing the guidance you appointed them for, by making public interest obligations for the digital television their first priority. By a near unanimous vote, they recommend the FCC act within 6 months (by May 18, 2006) to outline basic and meaningful public interest obligation and disclosure rules for digital television.

As Americans transition to the sharper images made possible by digital television, Americans also deserve a clearer picture from policymakers for how broadcasters will meet their basic public interest obligations in the digital age.

Yet, it has been more than six years since the Federal Communications Commission initiated its Notice of Inquiry into the Public Interest Obligations of television broadcasters (MM-99-360). A Notice of Proposed Rulemaking on the Disclosure Requirements (MM 00-168) for television broadcasters has also been languishing for five years at the Commission.

We urge you to seize upon this opportunity and accelerate the benefits that consumers receive from digital television by moving swiftly forward on these proceedings and clearly defining the public service that viewers can expect from local broadcasters. Such guidance from the Commission is urgently needed, given recent congressional action on digital television establishing a 2009 deadline for the end of the digital transition. Establishing a hard deadline for the digital transition was an important step; but of greater consequence is what television actually looks like after the transition - especially free, over-the-air television. Not only will clear public interest obligations promise relevant and quality programming for viewers, but they will create greater certainty for broadcasters who are already planning for what types of programming they will create in a digital world. Now that Congress has established a hard date for DTV, the FCC can make the hard choices for consumers.

As you know, we have previously outlined a comprehensive and meaningful framework for what those final public interest standards should be. We have been advocating for a processing guideline that provides a minimum of number of hours of qualifying local civic or electoral programming on the most-watched channel a television broadcaster operates, as well as reasonable guidelines for broadcasters who operate multiple streams of free, over-the-air programming. Under this approach, broadcasters who fulfill this guideline would be guaranteed an expedited license renewal process. Broadcasters who do not meet the minimum guidelines would have the opportunity to explain to the FCC why their public service is adequate. We believe that a key component of this approach includes adopting an unambiguous definition of what qualifies as local civic or electoral affairs programming. Since the original Notice of Inquiry was issued, the information technology revolution has made significant progress in reducing the burdens and increasing the potential benefits to consumers of the disclosure requirements.

Therefore, we also have expressed our strong support for implementing a disclosure rule that requires broadcasters to complete quarterly reports identifying any programming that fulfills the processing guideline, and making those reports publicly available. Appropriate disclosure requirements will give the FCC the information it needs to effectively enforce the law. Increased disclosure would also provide viewers with appropriate information about how the airwaves are being used by their local broadcasters who, as government-appointed trustees, are allowed to use the publicly-owned airwaves in exchange for a promise to fulfill statutory public interest obligations.

Yet, because the Commission has refused to move forward on the pending public interest NOI and disclosure NPRM, there has been no real opportunity for these – or other – proposals to receive serious consideration.

Given the urgency that Congress and the FCC's Consumer Advisory Commission have put on accelerating the DTV transition and the consumer benefits that should accompany it, the FCC has both an opportunity and a responsibility to act with appropriate urgency. We encourage you to announce a timetable for moving forward on these matters before the end of January.

Sincerely,

Benton Foundation
Campaign Legal Center
Common Cause
New America Foundation
Office of Communication of the United Church of Christ, Inc.