Congress of the United States
House of Representatives
Washington, D.C. 20515

February 2, 2009

The Hon. Michael J. Copps
Acting Chairman
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Dear Acting Chairman Copps:

Some are under the misimpression that the DTV delay legislation recently passed by the Senate and scheduled for consideration in the House would allow many broadcast stations to transition before the delayed date, and thus also allow public safety agencies to use the spectrum promised them before the delayed date. In fact, we understand that your Media Bureau has already been inundated with requests by broadcasters to transition before June 12 should the transition date be delayed.

We are concerned that broadcasters and the public at large have been misled as to how many stations would be allowed to transition voluntarily. The language in the legislation that everyone glosses over states that broadcasters may transition before the deadline only "so long as such prior termination is conducted in accordance with the Federal Communications Commission's requirements in effect on the date of enactment of this Act, including the flexible procedures established in the Matter of Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (FCC 07–228, MB Docket No. 07–91, released December 31, 2007)." Our understanding is that, because of interference concerns, most broadcast stations would not be allowed to transition under current FCC rules until around the time that all broadcast stations transition. Consequently, most of the spectrum promised to First Responders would also be unavailable until the delayed transition date.

As we have pointed out before, for a broadcaster to cease its analog transmissions on a channel, it needs a channel where it can broadcast in digital format at full power, otherwise viewers will lose service. Moreover, it must be able to do so without interfering with any other broadcaster. It took the FCC more than three years to allocate all those channels to broadcasters, and the allocations were predicated on everyone moving at about the same time.

We were heartened by your January 26 speech to the FCC staff in which you said you planned to improve lines of communication, enhance transparency in the Commission's work, and bring openness to decisions that gives credibility to what the Commission produces. With

that in mind, we ask that you allow the expert staff in the Media Bureau who has labored tirelessly on the DTV transition to answer the questions below.

DTV delay legislation is scheduled to be considered in the House on Wednesday, February 4, unfortunately without the benefit of any hearings or markups to examine whether the legislation will, in fact, work. Accordingly, we respectfully ask that you provide a written response to the following questions to us by Tuesday, February 3, at 3:00 p.m. so that we can have the benefit of your response prior to consideration of the legislation by the House:

1. How many stations could turn off their analog transmissions and turn on their post-transition, fully authorized digital facilities before the transition date, were it to be delayed? Please provide a list of these stations.

2. If you cannot specifically identify the number and identity of stations in question 1, please identify the approximate percentage of stations that you are reasonably sure would be able to transition before the delayed date.

If you determine that the transition process is too complex for anyone to confidently claim that more than a de minimis number of broadcasters would be able to transition before the delayed date, please indicate that in your response. If you have questions please contact Neil Fried at (202) 225-3641.

Sincerely,

Joe Barton
Ranking Member
Committee on Energy and Commerce

Cliff Stearns
Ranking Member
Subcommittee on Communications, Technology, and the Internet

cc: Commissioner Jonathan Adelstein
Commissioner Robert M. McDowell
Monica Desai, Chief, Media Bureau