

Resolution calling on the FCC to Seek Congressional Intervention on NTIA's implementation of the Digital-to-Analog Converter Box Coupon Program

WHEREAS, Congress has established February 17, 2009, as the hard deadline for the end of full-power analog broadcasting, and the effective transition to digital broadcasting television (DTV) service;¹ *and*

WHEREAS, Congress has mandated the Federal Communications Commission (FCC) to take such actions as are necessary to require the cessation of broadcasting by full-power stations in analog by February 18, 2009,² and promote the orderly transition of full-power stations from analog to DTV service;³ *and*

WHEREAS, The least expensive and most feasible alternative for household consumers who wish to continue receiving local broadcast television programming over-the-air (OTA”), using analog televisions not connected to cable or satellite service by February 18, 2009, may be to purchase and connect digital-to-analog converter boxes to their TV sets; *and*

WHEREAS, Congress has directed the U.S. Department of Commerce's National Telecommunications and Information Administration (NTIA) to implement and administer a subsidy program through which household consumers in the United States and its territories may obtain coupons that can be applied towards the purchase price of digital-to-analog converter boxes,⁴ and NTIA has denominated such program as the Digital-to-Analog Converter Box Coupon Program (Coupon Program);⁵ *and*

WHEREAS, Congress has imposed several limitations on NTIA's implementation and administration of the Coupon Program, such as ensuring that each requesting household receives, via the U.S. Postal Service, no more than two \$40 coupons, that coupons are not used in combination toward the purchase of a single digital-to-analog converter box, and that all coupons expire three months after their issuance date;⁶ *and*

WHEREAS, NTIA has already adopted rules implementing the Coupon Program, and allowing each household with a separate U.S. Postal address (not a Post Office Box), to receive up to two \$40 coupons that may be applied towards the purchase price of Coupon-Eligible Converter Boxes (CECBs) from Certified Retailers;⁷ *and*

¹ See *Digital Television Transition and Public Safety Act of 2005* (February 8, 2006), § 3002 (a)(1).

² See *Digital Television Transition and Public Safety Act of 2005* (February 8, 2006), § 3002 (b)(1).

³ See 47 U.S.C. § 336 (note in reference to P.L. 107-188 of June 12, 2002, Title V, Subtitle C, § 531).

⁴ See *Digital Television Transition and Public Safety Act of 2005* (February 8, 2006), § 3005 (a)(1).

⁵ See 47 C.F.R. Part 301.

⁶ See *Digital Television Transition and Public Safety Act of 2005* (February 8, 2006), § 3005 (c)(1).

⁷ See 47 C.F.R. Part 301.

WHEREAS, The rules adopted by NTIA oblige Certified Retailers to use commercially reasonable methods to order and manage inventory to meet customer demand for CECBs, and the NTIA intends that the Coupon Program results in high customer satisfaction with a minimum of waste, fraud and abuse;⁸ *and*

WHEREAS, Pursuant to the statistics provided by NTIA, as of July 15, 2008, from a total of 19,123,741 coupons mailed to requesting households, 3,503,060 coupons had expired, only 6,077,237 coupons had been redeemed, and 9,543,444 coupons remained active;⁹ *and*

WHEREAS, Consumers have been complaining about the unavailability of CECBs at Certified Retailers, and that their coupons are expiring before they can use them; *and*

WHEREAS, Consumers have also been complaining about Certified Retailers which require them to prepay for CECBs in order to place them on order, and the NTIA has not specified in its rules whether shipping and handling charges could be applied by Certified Retailers when CECBs are shipped directly to their stores; *and*

WHEREAS, Allowing Certified Retailers to apply shipping and handling charges for CECBs received at their stores would in fact reduce the practical value of the coupons; *and*

WHEREAS, The unavailability of CECBs is jeopardizing consumers' statutory right to acquire CECBs using their \$40 coupons, in order to continue receiving local broadcast television programming OTA using their analog televisions by February 18, 2009, which might also impair them from receiving emergency alerts; *and*

WHEREAS, NTIA has expressed that consumer households whose two coupons have expired before they could use them may not be able to reapply for them unless Congress amends the statute; *and*

WHEREAS, Consumers whose coupons expire due to the unavailability of CECBs at Certified Retailers or because of commercial methods such as the imposition of shipping and handling charges, endangers the success of the Coupon Program and defeats consumer education efforts displayed so far; *now, therefore, be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened at its 2008 Summer Meetings in Portland, Oregon, calls upon Congress to examine NTIA's implementation of the Digital-to-Analog Converter Box Coupon Program; *and be it further*

⁸ See 47 C.F.R. § 301.6.

⁹ See https://www.dtv2009.gov/docs/Weekly_Stats_Report_en.pdf.

RESOLVED, That NTIA should obtain inventory information from Certified Retailers, subject to appropriate confidentiality protections, to determine whether Certified Retailers are using commercially reasonable methods to order and manage inventory to meet customer demand for CECBs, so as to promote high customer satisfaction with a minimum of waste, fraud and abuse;
and be it further

RESOLVED, That Congress should extend the duration of the coupons beyond three months, or require NTIA to keep a record of households whose coupons have expired without being redeemed, and allow these households to reapply for coupons, if still interested.

Sponsored by the Committee on Consumer Affairs
Adopted by the Board of Directors July 23, 2008