

111TH CONGRESS
1ST SESSION

H. R. 2867

To ensure access to basic broadcast television after the Digital Television Transition, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2009

Mr. DEFAZIO (for himself, Mr. SESTAK, Mr. FILNER, and Mr. HARE) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To ensure access to basic broadcast television after the Digital Television Transition, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Digital TV Transition
5 Fairness Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act, the following definitions shall apply:

8 (1) ASSISTANT SECRETARY.—The term “Assist-
9 ant Secretary” means the Assistant Secretary for

1 Communications and Information of the Department
2 of Commerce.

3 (2) COMMISSION.—The term “Commission”
4 means the Federal Communications Commission.

5 (3) DIGITAL-TO-ANALOG CONVERTER BOX.—
6 The term “digital-to-analog converter box” has the
7 same meaning as in section 3005(d) of the Digital
8 Television Transition and Public Safety Act of 2005.

9 (4) LOCAL MARKET.—The term “local market”
10 has the same meaning as in section 122(j) of title
11 17, United States Code.

12 (5) MULTICHANNEL VIDEO PROGRAMMING DIS-
13 TRIBUTOR.—The term “multichannel video program-
14 ming distributor” has the same meaning as in sec-
15 tion 602(13) of the Communications Act of 1934.

16 (6) TELEVISION BROADCAST STATION.—The
17 term “television broadcast station” has the same
18 meaning as in section 325(b)(7) of the Communica-
19 tions Act of 1934.

20 **SEC. 3. DIGITAL VIEWERSHIP COUPON PROGRAM.**

21 (a) CREATION OF PROGRAM.—The Assistant Sec-
22 retary, in coordination and consultation with the Commis-
23 sion, shall implement and administer a program through
24 which households or individuals in the United States may
25 obtain coupons that can be applied toward—

1 (1) the cost to install a digital-to-analog con-
2 verter box;

3 (2) the purchase of an indoor or outdoor an-
4 tenna, or both if needed, to facilitate the reception
5 and display of signals of channels broadcast in dig-
6 ital television service;

7 (3) the cost to install any antenna described in
8 paragraph (2); and

9 (4) the cost to install, or the cost of any other
10 equipment needed to receive and display, basic
11 broadcast television service, as such service is de-
12 scribed in section 4.

13 (b) PROGRAM SPECIFICATIONS.—

14 (1) ELIGIBILITY.—

15 (A) HOUSEHOLD OR INDIVIDUAL.—Any
16 household or individual that was or is eligible
17 for a digital-to-analog converter box coupon
18 under the coupon program established under
19 section 3005 of the Digital Television Transi-
20 tion and Public Safety Act of 2005 shall be eli-
21 gible to receive a coupon under the coupon pro-
22 gram established under this section.

23 (B) PRODUCT ELIGIBILITY.—The Assist-
24 ant Secretary, in consultation with the Commis-
25 sion, shall determine minimum standards for

1 which types of antennas, installation providers,
2 and other companies are eligible to participate
3 in the coupon program established under this
4 section. Such minimum standards shall be es-
5 tablished not later than 30 days after the date
6 of enactment of this Act.

7 (C) LIMITATION.—No household or indi-
8 vidual may be eligible to participate in the cou-
9 pon program established under this section if—

10 (i) on the date of enactment of this
11 Act, the household or individual was receiv-
12 ing broadcast television that it had pur-
13 chased from a multichannel video program-
14 ming distributor; or

15 (ii) after the date of enactment of this
16 Act, the household or individual purchases
17 television broadcasts, other than basic
18 broadcast television service described in
19 section 4, from a multichannel video pro-
20 gramming distributor.

21 (2) REQUEST.—A household or individual may
22 obtain coupons under this section by making a re-
23 quest as required by the regulations implementing
24 this section.

1 (3) COUPON VALUE.—The Assistant Secretary
2 shall determine the value of any coupons issued
3 under this section, provided that the value of any
4 single coupon does not exceed \$80. In making the
5 determination of the value of any single coupon, the
6 Assistant Secretary shall consider the purpose for
7 which the requesting household or individual is re-
8 questing the coupon and the types of costs to which
9 the coupon will be applied.

10 (4) DURATION.—All coupons issued under this
11 section shall expire upon the later of the date of ter-
12 mination of the program established under this sec-
13 tion or 90 days.

14 (5) TERMINATION.—The program established
15 under this section shall terminate on the date that
16 is 18 months after the date on which the first cou-
17 pon under this section is issued.

18 (c) CONSUMER EDUCATION.—The Assistant Sec-
19 retary shall develop, in consultation with the Commission
20 and broadcast and television industry representatives, an
21 Internet website and a toll-free telephone hotline accessible
22 to consumers that have degraded or lost signals or chan-
23 nels as a result of the full power transition from analog
24 to digital television that is to occur on February 17, 2009.

1 The website and telephone hotline shall provide relevant
2 information in order to assist consumers in determining—

3 (1) if the purchase or installation of an outdoor
4 or indoor antenna will assist the consumer in resolv-
5 ing or improving their digital television reception
6 problems; and

7 (2) what options are available to them should
8 they find that purchasing an outdoor or indoor an-
9 tenna will not assist in resolving or improving their
10 digital television reception.

11 (d) ANTI-FRAUD PROTECTIONS.—The Assistant Sec-
12 retary shall develop, in consultation with the Commission,
13 anti-fraud measures and procedures to ensure that only
14 eligible households and individuals receive a coupon issued
15 under this section.

16 (e) REPORTING REQUIREMENT.—

17 (1) IN GENERAL.—Not later than 1 month
18 after the date of enactment of this Act, and every
19 7 days thereafter, the National Telecommunications
20 and Information Administration shall make publicly
21 available on its website the—

22 (A) number of requests for coupons under
23 this section;

24 (B) number of coupons issued under this
25 section;

1 (C) amount of each coupon issued, includ-
2 ing the total amount of all such issued coupons;

3 (D) types of costs to which each such
4 issued coupon will be applied, as such costs are
5 self-reported on the application of each house-
6 hold or individual;

7 (E) number of issued coupons that have
8 been redeemed; and

9 (F) amount of unobligated and unexpended
10 funds that remain from the amounts authorized
11 under section 6.

12 (2) TERMINATION.—The requirement described
13 under paragraph (1) shall terminate 3 months after
14 the last coupon under this section is issued.

15 **SEC. 4. BASIC BROADCAST TELEVISION SERVICE.**

16 (a) REQUIREMENT.—

17 (1) IN GENERAL.—The Commission shall pro-
18 mulgate rules requiring that each multichannel video
19 programming distributor, who provides broadcast
20 television for a local market, provide to eligible con-
21 sumers in that local market access to basic broad-
22 cast television service, as such service is described in
23 subsection (b).

24 (2) SAFE HARBOR.—

1 (A) IN GENERAL.—The retransmission or
2 secondary transmission of any television broad-
3 cast station by a multichannel video program-
4 ming distributor pursuant to paragraph (1)
5 shall not be subject to any prohibitions on such
6 activities as described under sections 325 and
7 338 of the Communications Act of 1934 or
8 under section 122 of title 17, United States
9 Code, and any such distributor shall be immune
10 from any civil liability related to fulfilling the
11 requirements under paragraph (1).

12 (B) FEE EXEMPTION.—In promulgating
13 rules under paragraph (1), the Commission
14 shall require that each television broadcast sta-
15 tion—

16 (i) grant consent to multichannel
17 video programming distributors to re-
18 transmit the signal of such broadcasting
19 station only for the purposes of fulfilling
20 the requirements under paragraph (1); and

21 (ii) waive any fees or charges that are
22 customarily or usually applied for the
23 grant of such consent.

24 (b) BASIC BROADCAST TELEVISION SERVICE.—Any
25 rule promulgated under subsection (a) relating to the defi-

1 nition of basic broadcast television service shall ensure
2 that, at a minimum, such service includes the trans-
3 mission, retransmission, or secondary transmission of the
4 over-the-air signal of any nonsubscription television broad-
5 cast station located within the local market.

6 (c) ELIGIBLE CONSUMERS.—

7 (1) IN GENERAL.—For purposes of this section,
8 an “eligible consumer” is a consumer—

9 (A) whose primary residence is located in
10 a local market where at least 1 television broad-
11 cast station has certified to the Commission
12 that channel signal loss has occurred as a result
13 of the transition from analog to digital tele-
14 vision that is to occur on February 17, 2009;
15 and

16 (B) who does not currently subscribe to a
17 multichannel video programming service at his
18 or her primary residence.

19 (2) LOSS OF ELIGIBILITY; PURCHASE OF ADDI-
20 TIONAL SERVICE.—If at any time after purchasing
21 basic broadcast television service pursuant to this
22 section, an eligible consumer purchases any addi-
23 tional channel service from a multichannel video pro-
24 gramming distributor, such consumer shall no longer

1 be eligible to purchase such basic broadcast tele-
2 vision service.

3 (d) ADDITIONAL COST REQUIREMENTS.—In promul-
4 gating rules under subsection (a), the Commission shall
5 ensure that—

6 (1) the cost to purchase basic broadcast tele-
7 vision service does not exceed \$10 per month, except
8 that such maximum monthly fee shall be adjusted
9 annually in accordance with the annual percentage
10 increase in the Consumer Price Index of the Bureau
11 of Labor Statistics of the Department of Labor in
12 increments of \$1 only when the percentage increase
13 in such index, when applied to the maximum month-
14 ly fee, produces dollar increases that exceed \$1; and

15 (2) a multichannel video programming dis-
16 tributor providing such basic broadcast service may
17 not charge installation costs for such service that are
18 in excess of the regular market rate charged to nor-
19 mal non-basic broadcast television service customers
20 who purchase installation for any other services pro-
21 vided by the multichannel video programming dis-
22 tributor.

23 (e) ANTI-FRAUD PROTECTIONS.—The Commission
24 shall develop anti-fraud measures and procedures to en-
25 sure that only eligible consumers are provided access to

1 basic broadcast television service under the terms of this
2 section.

3 (f) REPORT TO CONGRESS.—Not later than 6 months
4 after the date of enactment of this Act, and every 12
5 months thereafter, the Commission shall submit a report
6 to the Committee on Commerce, Science, and Transpor-
7 tation of the Senate and the Committee on Energy and
8 Commerce of the House of Representatives on—

9 (1) the number of eligible consumers who have
10 purchased basic broadcast television service;

11 (2) the problems encountered by eligible con-
12 sumers, multichannel video programming distribu-
13 tors, television broadcasters, or the Commission in
14 adhering to or implementing the requirements of
15 this section; and

16 (3) any other information the Commission de-
17 termines appropriate.

18 (g) PUBLIC AVAILABILITY.—The Commission shall
19 make any report required under subsection (e) available
20 to the public on its website in a searchable and
21 downloadable manner.

22 (h) TERMINATION ONLY BY ACT OF CONGRESS.—
23 This section may be limited, canceled, terminated, or re-
24 scinded only by an Act of Congress.

1 **SEC. 5. OUTREACH CAMPAIGN.**

2 (a) IN GENERAL.—The Commission, in consultation
3 and coordination with the National Telecommunications
4 and Information Administration, the Administrator of the
5 Administration on Aging, the heads of any other relevant
6 Federal agency, State and local agencies, the broadcast,
7 cable, satellite, and other telecommunications industries,
8 and nonprofit, religious, community-based, and other simi-
9 lar organizations, shall carry out an education and out-
10 reach campaign to inform and educate consumers on the
11 availability, benefits, and advantages of the programs and
12 requirements established under this Act.

13 (b) REQUIREMENTS.—The education and outreach
14 campaign required under subsection (a) shall, at a min-
15 imum—

16 (1) begin immediately upon the date of enact-
17 ment of this Act;

18 (2) involve dissemination of information over
19 radio, television, the Internet, and other electronic
20 media, as well other traditional nonelectronic media;

21 (3) require that each agency described in sub-
22 section (a) maintain information relating to the pro-
23 grams and requirements established under this Act
24 on the website of such agency; and

25 (4) require efforts to inform and educate all rel-
26 evant consumers, in particular those consumers—

- 1 (A) in vulnerable populations such as—
2 (i) senior citizens;
3 (ii) consumers living in rural and trib-
4 al areas;
5 (iii) non-English speaking consumers;
6 (iv) consumers with disabilities; and
7 (v) low-income consumers; and

8 (B) located in a local market where chan-
9 nel signal loss as a result of the full power tran-
10 sition from analog to digital television that is to
11 occur on February 17, 2009, is likely or pre-
12 dicted to be likely.

13 (c) PROVISION OF FUNDS.—The Commission may
14 distribute funds to nonprofit, religious, community-based,
15 and other similar organizations to assist with the edu-
16 cation and outreach campaign required under this section.

17 (d) WEBSITE.—Each Federal agency participating in
18 the education and outreach campaign required under this
19 section shall work to ensure the existence and operation
20 of a single website accessible by the public that shall serve
21 as the clearinghouse for all information relating to this
22 Act and the programs established by this Act.

1 **SEC. 6. FUNDING.**

2 (a) AUTHORIZATION OF APPROPRIATIONS.—There
3 are authorized to be appropriated to carry out this Act
4 \$700,000,000 for fiscal years 2009 and 2010, of which—

5 (1) \$600,000,000 shall be made available to the
6 Assistant Secretary to carry out the digital
7 viewership coupon program established under section
8 3; and

9 (2) \$100,000,000 shall be made available to the
10 Commission to carry out the requirements of sec-
11 tions 4 and 5.

12 (b) TRANSFER OF FUNDS IN THE DIGITAL TELE-
13 VISION TRANSITION AND PUBLIC SAFETY FUND.—Not-
14 withstanding any other provision of law, any funds re-
15 maining in the Digital Television Transition and Public
16 Safety Fund established under section 309(j)(8)(E) of the
17 Communications Act of 1934 (47 U.S.C. 309(j)(8)(E))
18 shall, upon the expiration of the digital-to-analog con-
19 verter box program established under section 3005 of the
20 Digital Television Transition and Public Safety Act of
21 2005, be used to carry out the provisions of this Act.

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