



April 24, 2008

MEMORANDUM TO CLIENTS

Re: FCC Seeks Comment on Proposal to Require Cable and DBS to Provide “On-Air” Digital Transition Education Announcements.

The FCC has issued a further notice of proposed rulemaking seeking comment on whether it should amend its rules to require multichannel video programming distributors (including both cable and DBS) to run “on-air” announcements about the digital transition on their cable systems. The FCC’s brief and broadly worded request for comments not only asks whether it should require such on-air announcements, but also what entities should be covered by the requirement, thereby opening the door for the obligation to be imposed not just on the cable operator or DBS provider, but on cable network programmers.

The further notice was issued by the FCC in conjunction with its adoption of an order modifying certain of the DTV education requirements it had adopted last month. For example, the FCC clarified and modified certain of the DTV notice requirements imposed on the manufacturers and retailers of television equipment. The FCC also changed its rules to allow certain “eligible telecommunications carriers” who receive universal service funding to provide low-income customers with information on the DTV transition via separate monthly mailings rather than by the inclusion of such information on the customer bill.

The FCC did not change any of the current DTV education requirements applicable to cable or broadcasting but, as noted above, is seeking comment on whether it should impose on-air education obligations on cable and DBS similar to the on-air obligations imposed on broadcasters. Commercial broadcasters currently have two options for providing on-air announcements regarding the DTV transition: (i) air a mix of PSAs and crawls pursuant to an FCC-mandated schedule or (ii) air PSAs, crawls, and other forms of notice in accordance with a plan developed by NAB. The FCC did acknowledge that the cable industry already is engaged in a \$200 million voluntary consumer education campaign and Commissioner McDowell in particular raised questions as to whether imposing additional obligations on cable was necessary or constitutional.

We would be pleased to respond to any questions regarding these matters.

FLEISCHMAN AND HARDING LLP

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