

## **KIKU, Honolulu, Hawaii**

### Request for Waiver of DTV Consumer Education Rules

KHLS, Inc. ("KHLS"), licensee of KIKU, Honolulu, Hawaii (Facility ID # 34527), respectfully requests waiver of the requirement that KIKU continue to broadcast digital television transition notices, as directed by Section 73.674, beyond February 15, 2009.

KIKU, along with the other full-power television stations in Hawaii, terminated analog broadcasts on January 15, 2009. Since that date, KIKU has continued broadcasts of announcements detailing measures that viewers must take to receive television broadcasts in Hawaii. KHLS believes that viewers in the state are now completely aware of the situation and that additional broadcasts of post-transition consumer education messages are no longer helpful to them. Section 73.674 (as in effect on the date of this request, prior to revisions made necessary by the DTV Delay Act) would require that these messages continue until March 31, 2009. KIKU broadcasts on a digital facility that covers its full authorized service area.

The purpose of the March 31, 2009 deadline was to assure that television viewers would be fully apprised of the methods by which they can receive broadcasts after they have experienced the termination of analog broadcasting. This date was set in place with the assumption that analog broadcasting would cease on February 17, 2009. *See DTV Consumer Education*, 22 FCC Rcd. 4134 (2008). Because the television stations of Hawaii completed the transition to digital broadcasting a month earlier, the underlying purpose of the rule would no longer be served by strict adherence to the date in Section 73.674. Additionally, with the requested waiver, KIKU would have more available time to broadcast other public service announcements and programming that would benefit the people of the state in a wide variety of ways. Accordingly, the public interest would be served by grant of this waiver and it meets the standard set forth in *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Circuit, 1969).

There is adequate precedent for this waiver. Three stations in Wilmington, North Carolina terminated analog broadcasts on September 8, 2008. The Commission waived the DTV transition consumer education requirements of Section 73.674 for those stations as of September 8, 2008. *DTV Consumer Education Initiative*, DA 08-2000 (Order in MB Docket No. 07-148, released September 24, 2008).

Please address any questions regarding this request to KHLS's communications counsel, David H. Pawlik at Skadden, Arps, Slate, Meahger & Flom LLP; (202) 371-7044; e-mail: [dpawlik@skadden.com](mailto:dpawlik@skadden.com)