

EMERGING TRENDS: COMMUNICATIONS

DIGITAL TV'S BIG DEADLINE, OR DELAY?

Consumer advocates want to push back the February 17, 2009 jump to digital broadcasting, but an extension may do more to simply postpone feared disruptions than prevent them.

by Lauren Lynch Flick

Q&A



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Next to the Internet, perhaps no consumer technology platform is evolving faster than television. For more than a generation, channel surfing was a relatively simple decision from a service standpoint. Analog broadcasts dated back to the 1940's, while competing cable and satellite-based subscription services gained popularity in the ensuing decades. Today, these traditional choices are being revamped by the growing popularity of more sophisticated high definition (HD) TV equipment and myriad set-top receiver options from service providers and consumer electronics manufacturers that provide greater access and control over content. Yet, just as the nation is poised to embrace a major step forward in the evolution of over-the-air television, concerns for the nation's readiness to do so threaten the government's long-standing proposal to terminate analog broadcasts in favor of digital television (DTV) on February 17, 2009.

Already implemented in regional test markets, this massive digital "switch-over" has revealed several important lessons and issues unanticipated by consumers. In this Q&A, Pillsbury Communications law partner Lauren Lynch Flick answers persistent questions consumers have regarding how they can stay informed and tuned-in.

Q: Let's start with the big switch to digital TV signals, who does this affect and why is it happening?

Lynch Flick: In short, many of the frequencies, or channels, that broadcasters use today for the free, "over the air" television stations that we are all familiar with and used to being able to receive, are being reallocated for public safety, such as assuring that police and fire crews can communicate with one another on the same frequencies in an emergency, as well as for new wireless services by phone and data carriers. In the past year, the Federal Communications Commission (FCC) auctioned these old analog TV frequencies off to the highest bidding companies in anticipation of television broadcasters vacating the channels by the Congressionally-mandated deadline of February 17, 2009.

The switch to newer, digital TV (DTV) signals allows broadcasters to provide viewers with additional programming streams, as well as greatly increased picture and sound quality. Nevertheless, the challenge of making sure that all households, especially those with older sets, can receive the new signals, is daunting.

Q: Is February 17 going to be like Y2K or worse if famously TV-addicted Americans, for example, suddenly can't watch *Dancing with the Stars*?

Lynch Flick: This is a major concern in Washington and among broadcasters across the nation. Broadcast television provides the nation with vital news and information programming. On the local level, viewers cannot afford to be deprived of their local stations' public affairs programming and coverage of local emergencies. TV provides a link to the outside world in times of crisis and for senior citizens and other vulnerable populations. Loss of television is just as critical as loss of electricity.

For these very reasons, the federal government long ago stated it wanted to mitigate cost and disruption consequences for the public at-large and created a program that distributes cost-defraying coupons to households requiring a converter box. However, the government's efforts to educate the public about the transition, and the implementation of the converter box coupon program are drawing fire, especially since the coupon program is currently out of money.

Q: Well, just what does the consuming public understand about the need to take action?

Lynch Flick: Before the converter box coupon program's financial difficulties came to light, Consumers Union conducted a survey revealing that 93 percent of respondents were aware of the DTV transition, which is positive. However, the data also

revealed widely-held misconceptions; 41 percent of respondents believe all TV sets will require converter boxes, even digital ones, while 29 percent believe you will no longer be able to watch broadcast TV without buying a new set. Twenty-five percent believed they must subscribe to either satellite or cable to watch any television after the DTV switch, and 9 percent incorrectly believe analog sets must be discarded after the DTV deadline.

The near-panic that has arisen surrounding the converter box coupon program may well have brought new attention to the transition, but it has likely also confused consumers as to what they can or should do at this point in time.

Q: There have been lots of public service announcements airing telling consumers that they'll need to buy a converter box, so why is there so much confusion and panic now?

Lynch Flick: With respect to the panic, the issue is that the converter box coupons are valid for 90 days, but of those who have requested and received them up to this point in time, only about one-third have redeemed them within that 90-day period. The two-thirds who have not redeemed them are tying up the funds needed to issue new coupons until such time as their coupons expire. Money will flow back into the program from those who do not redeem their coupons, but it would be logical to assume that more people will actually use the coupons now that the transition is imminent.

As a result, Congress needs to appropriate more money to issue coupons to those on the wait list, and some of that money will ultimately go unused.

The underlying confusion, however, arises because no two households have the exact same equipment or ability to receive over the air signals, no two television stations will have the exact same timeline for building their new digital facility, and digital signals behave differently from their analog counterparts. All of this means that there will be unavoidable consequences for some viewers no matter when the transition occurs.

Q: What if I have cable or satellite service?

Lynch Flick: For households that subscribe to satellite or cable service, the transition should proceed relatively smoothly. Those companies are offering their subscribers any additional equipment (set-top boxes) they will need to continue to receive local stations after the transition date, for TVs connected to the cable or satellite service. However, if a household wants to use additional television sets that are not connected to the cable or satellite provider, they will have to take the same steps as non-cable or non-satellite consumers.

Q: What steps should be taken for households or sets that are not connected to cable or satellite service?

Lynch Flick: With respect to sets that are not connected to cable or satellite, if the set is a newer model with a digital tuner, it should generally be able to receive free over-the-air digital signals. However, it may be necessary to install a rooftop antenna to do so. Many households voluntarily took down their older rooftop antennae years ago, these were the aerials that looked like weather vanes and dominated residential skylines before cable and satellite took off and smaller antennae began shipping with TVs for indoor use.

Because DTV signals do not penetrate walls as forcefully as the old analog signals, consumers in markets that have already made the transition are finding that they need to reinstall an antenna, or, if they live in an apartment building or other rented space, they need to find out whether the building has sufficient antenna connectivity. This has led to calls for the government to start a fund to help consumers purchase antennae as well as converter boxes.

Existing antenna may also need to be reoriented. This is because, for any number of reasons, some stations could not build their digital facilities at the same location from which they have broadcast their analog signal. Thus, the spaces in your home where you may have received strong signals back when you first moved in may now change. Or, if a station's coverage area has changed significantly, you may simply lose that signal or gain others.

In this same vein, digital signals also differ from analog signals in that they do not "fade," they are either on or off. Therefore, a home located on the edge of a station's service area but that nevertheless can get some signal today, may lose that signal once the station stops broadcasting in analog.

Q: And if the set does not have a digital tuner?

Lynch Flick: If the set is an older analog TV, it will need a converter box. This includes all types of television sets such as portable sets or those installed in vehicles.

Q: If I'm not going to buy a new DTV-ready set, wouldn't I be better off signing up for cable or satellite?

Lynch Flick: This goes to the issue of how much you wish to engage in this new technological revolution. In addition to sharper picture quality and better sound quality, DTV gives broadcasters the ability to "multicast" more than one stream of content. This is important because ever since scores of niche sports, news, cooking and other channels shattered the "one network fits all" model of television, viewers gravitate to programming they prefer, drawing sponsors and advertising revenue with them.

For example, with DTV in place, a broadcaster might opt to launch a new channel catering to a specific age and gender demographic, while simultaneously keeping up its traditional channel and programming lineups. The switch to DTV should be interesting for the business of broadcasting.

Not all television stations are carried by all local cable and satellite systems, but even for those that are, the cable and satellite operators are not obligated to pass on the additional channels or features that DTV provides.

Q: Wouldn't a delay simply allow owners of older sets time to hook them to converter boxes?

Lynch Flick: Certainly some people will take advantage of any delay to purchase and install converter boxes. There will, however, still be rough patches in the transition, no matter when it happens. Each station making the transition affects another station making the transition. Some may be ready to go but cannot do so until another station goes or their signals will be obliterated by interference from one another. There is such demand for tower crews that some stations will have to undertake the conversion work whenever the crew shows up and then perhaps sit silently until the new transition date to avoid interfering with another station still waiting for its crew. Indeed, many stations in northern climes or whose towers are located on mountains had to remove their analog antennae from the tower before winter weather set in. The longer the delay, the longer these stations will sit silent, the public deprived of their service. Essentially, a delay could well look like a wreck in a bike race with cascading accidents flowing behind the bicyclist that first fell.

To help spur on the conversion to digital television by getting digital programming on the air for early-adopters, television stations were required to continue to broadcast their analog signals, but to also build a second station on a different channel to operate digitally. For many large market network affiliates, the second channels they received were comparable to their analog channels. To make the transition, these stations will simply turn their analog signals off and continue to broadcast their digital signals. For many other stations, especially those in the most densely populated areas, there were not enough high quality channels to go around. Those stations have been operating their digital signals on inferior channels subject to interference from stations in neighboring markets. Once analog broadcasting ceases, these stations will have to move their digital operations onto their old analog channels. This cannot be done at the flip of a switch meaning that viewers lose stations making such modifications for hours, days or weeks, while that work is underway.

Still other stations were built decades ago with their analog antennae at the highest point on their towers. Once those stations stop broadcasting in analog, their digital antennae will be moved up to assure the best quality service to the public. Such work requires coordination with other stations sharing the tower and specially trained crews that have been and will remain

scarce due to the large number of stations needing their services all at the same time. Thus, these stations, too, will shut down for some period of time whenever the transition occurs and the public will lose access to at least those programming sources.

A delay will not prevent any of these disruptions.

Q: This does sound a bit like widespread “Y2K” fears in late-1999. Where can consumers turn for help?

Lynch Flick: Consumers have several good sources of information available to them. The government’s website www.DTV.gov is one. In addition, the FCC will have help lines available to consumers who encounter difficulties receiving broadcast signals or installing converter boxes. Local television stations are also an excellent source of information and should be able to advise you if they will be shutting down for any period of time or if their coverage area has changed.

There are several general steps consumers can take to make the transition go more smoothly. First, consumers with digital receivers and converter boxes already installed should “rescan” their boxes frequently over the next six months. As mentioned, each station’s build-out plan is different, so a station might not have been broadcasting digitally at the time the box was originally scanned and more will come on the air over the next few months. You

may not be able to see these newly added signals until you perform a scan to capture the new signals.

Do not be confused if you begin to see your favorite station identified by a different channel number. As mentioned, many stations will have to change channels. In an effort to avoid confusion, digital equipment is supposed to display the number you are used to seeing even if the station is no longer on that channel. Some converter boxes may nevertheless show the channel the station is really on, now. In fact, if you cannot get your box to display a certain station by tuning to the number you are familiar with, you may wish to call the station to find out what channel it is really using and manually input that number to see if that will allow you to see the station again.

If you are able to receive some stations but not others, you may need to use rabbit ears and seek out spots in your home where a station’s signal is strongest. If you have no satisfactory results that way, you may have to install or reorient a rooftop antenna.

Q: Analog broadcasts dominated from TV’s infancy, then we had cable and satellite spark entirely new competition and business models, and today DTV is changing the game. Where do you foresee the next revolution?

Lynch Flick: It is fair to say television has been “making up for lost time,” from a disruption standpoint. We had a short list of options

for seemingly a lifetime, and now that has been completely upended. What is important is that the action of watching has not changed; all the disruption generally has to do with the quality of the picture, the choices of content and how it is delivered.

It is safe to say that higher definition, programming variety and meeting consumers' immediate demand for content will keep driving TV innovation. Regulators will have to keep pace with new specifications and technology, just as broadcasters, manufacturers and content producers will have to keep simplicity and the consumer experience at the forefront of their strategies for tomorrow's TV.

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