

FCC Open Commission Meeting  
En Banc on Digital Television Transition  
March 5, 2009

**Panel 1: FCC and NTIA Reports on the  
Events Surrounding February 17, 2009, Lessons Learned and Next Steps**

Opening Remarks

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Good morning Mr. Chairman and Commissioners. At the last en banc, on February 5th, I reported on the Commission's Public Notice that announced the initial procedures to implement the DTV Delay Act, which Congress had just passed. We announced a partial waiver of our rules and established a process by which stations might transition on February 17th, while we also reserved our right to limit such transitions in the public interest.

On February 9th we received notifications from 491 stations that wanted to transition on February 17th. My colleagues in the Media Bureau reviewed the stations and the markets they serve to determine if allowing these transitions would be in the public interest or would risk harm to the public. In consultation with the Commission and our colleagues in other Bureaus and Offices, we developed criteria for evaluating the stations, focusing in particular on whether the proposed transition of a station affiliated with a major network would leave its viewers without any major network affiliate continuing to broadcast an analog signal. The harm we identified was the potential loss of news, public affairs, and emergency information. We decided that a station would be permitted to transition as long as at least one major network affiliate serving its market area would continue to broadcast either full analog programming, or "enhanced analog nightlight" programming, meaning local news, public affairs and emergency information, as well as information about the DTV transition. We also required major network affiliates that wanted to transition to comply with specific public interest conditions focused on providing consumer outreach and assistance in their markets. In our analysis, we conferred with the Office of Engineering and Technology as well as our own Media Bureau engineers, paying close attention to the analog coverage contour of the stations. We considered not only their Designated Market Area but, more importantly, the area in which the population was likely to be relying on their over-the-air signal. We considered

whether there would continue to be analog over-the-air service in these areas, because continuing service at the opposite end of the market would not suffice.

On February 11th, we issued another public notice listing 368 stations that could proceed with transitioning on February 17 and 123 stations, whose transition would have placed their viewers at risk. Stations in this latter group were required to certify to eight public interest measures, including providing “enhanced analog nightlight” if they wished to proceed with transitioning on February 17th. Stations were also permitted to make a showing of exigent circumstances that necessitated their early transition but prevented them from complying with all the public interest conditions.

On February 13th, 43 stations notified us that they would not transition on February 17th after all, 53 certified that they would comply with the public interest conditions, and 10 stations submitted showings to demonstrate exigent circumstances. We immediately reviewed hardship showings and conferred with the Commissioners’ staff. In the end all 10 requests were approved but only after we ascertained that there would be some analog service for the viewers in these market areas. The broadcasters presented creative solutions, including partnering with PBS stations that were not transitioning to provide the station’s local news broadcast on PBS channels, without commercials.

In the end, **417** stations terminated their analog signals on February 17, 2009. Adding this number to the **220** stations that had previously transitioned, meant that a total of 637 stations had transitioned, roughly one-third of all the full power stations. Nonetheless, these **637** stations represent only 13 entire DMAs, including Honolulu and Wilmington, NC, and Guam in which all stations terminated analog service. As our chart shows, these completely transitioned markets represent less than 2.5% of TV households nationwide, and only 2% of households that rely solely on over-the-air broadcast service. We calculated that the transition of these 637 stations had a “significant” impact in 74 markets [14+60], based on the assumption that the loss of two or more major network affiliates is significant, or one major affiliate in markets with only one or two major affiliates to start with. We also identified six additional markets in which particular areas within the market would be significantly affected by major network affiliates terminating analog service, for a total of 80 markets (out of 210 DMAs [38%]) that have completely transitioned or were significantly affected by the transition thus far.

Taking all of this data together, the overall impact in these 80 markets affected just over 15% of TV households and 15.5% of OTA households. These percentages illustrate that, although the partial transition on February 17th was significant, it affected only a small number and percentage of households across the United States. While we are proud of the successful results and relatively smooth transition on the 17<sup>th</sup>, we must be mindful that this is just the beginning and that the larger impacts lie ahead of us.

We have learned much from the events and actions on the 17<sup>th</sup>. My colleagues here at the table will describe the lessons learned for outreach, the call center, and signal coverage. Our lessons learned in the Media Bureau were forged quickly from February 4th to February 17th and became the basis for the Commission’s regulatory actions to

implement the DTV Delay Act as we enter the next phase of the DTV transition. We recognized the importance of providing a smooth and orderly transition for consumers while also offering broadcasters flexibility as to their transition timing. We believe that the continued presence of analog service from at least one major network affiliate eased the transition by other stations in the market. We also believe that the enhanced nightlight service did indeed offer analog viewers critical information about both local news and events as well as about the transition.

As a result, on February 20, the Commission issued a Report and Order and Notice of Proposed Rulemaking that addressed the most important issues to implement the DTV Delay Act going forward. Most salient for our discussion today, the Order and Notice set forth the next steps for stations as they plan their transition, which, in turn will enable us to plan for the transition across the country. The Order clearly favored continuation of analog service through June 12th, the deadline chosen by Congress and the President to provide additional time for viewers to prepare for the transition and for the Commission and other governmental agencies to assist them. We also recognized, as Congress did, stations' need for flexibility and established March 17th as the date by which all stations that have not yet transitioned must inform the Commission of their plans. We selected this date to give stations time to consider their plans, to give the Commission time to complete the rulemaking, and to allow for stations to complete their transition as early as mid-April, but no earlier. As my colleagues here will explain, advance planning for outreach and call center readiness is essential. We already experienced turning on a dime from February 17th to June 12th and back to February 17th again to react to the early transition of over 400 stations scattered across the country. Going forward, we need time to prepare, and to provide an orderly process for consumers, broadcasters, and others affected by the transition. Advanced notice of stations' transition plans will provide that time.

The Notice also proposes that we adopt the measures we found successful in the run up to February 17<sup>th</sup>. Stations that want to transition early must broadcast specific viewer notifications, including a crawl for the 7 days prior to their transition. Major network affiliates may transition early only if

1. There will be at least one major network affiliate that will continue to provide analog service through June 12 to at least 90 percent of the station's viewers, either with full analog programming or with local news, public affairs, DTV transition education and emergency information ("enhanced analog nightlight");
2. The station commits to providing outreach and assistance concerning the transition in its community, such as walk-in clinics to demonstrate installation of converter boxes and telephone call centers; and
3. The station provides specific viewer notifications for at least 30 days prior to termination and additional crawls for seven days prior to termination.

We also recognize that some stations may have a genuine hardship situation, whether financial or technical, that necessitates early transition. The Notice proposes that we consider such showings from stations, in conjunction with alternative means by which

they can assure their viewers of continued analog service until June 12, perhaps utilizing the creative measures developed by the stations seeking to terminate on February 17th.

The Notice also sought comment on revisions to the Consumer Education requirements for broadcasters to respond to one of the most important lessons learned thus far. We have found that more than 30% of the calls report problems associated with obtaining reception of digital signals. Broadcasters are best situated to inform their viewers about the measures they should take to continue receiving service. Therefore we proposed that broadcasters must include in their mandatory consumer education information about signal coverage changes, signal loss (if more than 2% due to coverage shift), antenna adjustments, and rescanning.

The comment period closed yesterday and we received over 30 comments. We are hard at work reviewing the comments and drafting the Order. We expect to have it ready for Commission review early next week.

Thank you for giving me the opportunity to provide this brief overview of the activities in the Media Bureau as we work together to implement the DTV Delay Act and smooth the way to the new transition deadline for television viewers across the country. We have much ahead of us, and I am glad that we have the superb staff here to make it happen with your support and guidance.