

Commission Takes Next Steps Toward Orderly Implementation of DTV Delay Act.

Summary of February 20 Order and Proposals

On February 20, 2009, the Commission took the next steps necessary to implement the DTV Delay Act, which extended the deadline for full power TV stations to complete their transition to all-digital broadcasting. The Commission adopted the Second Report and Order and Notice of Proposed Rulemaking, which addressed changes in timing and content for DTV Consumer Education requirements to take account of the change in the digital transition deadline from February 17 to June 12, 2009. Among other important steps, the Commission:

- Established March 17 as the deadline for stations to elect their final transition date
- Permitted stations to transition before June 12, but no sooner than April 16, 2009
- Required that stations wait until the Commission adopts its new procedures before filing their planned timing

The Commission decided that stations may be permitted to transition between April 16 and June 12, as long as early transitions address public interest concerns. The Commission's Notice requested comment on the procedures and public interest conditions that will apply to stations asking to transition before June 12. The Notice also sought comment on additional consumer education requirements that should apply to all broadcasters, including informing viewers about possible areas of signal loss after the transition. The specific decisions and timing are described below.

The DTV Delay Act requires the Commission to take the actions necessary to implement the date change by March 13, 2009, which is 30 days after the Act was signed by the President. As a result of the short timeframe for action, the Commission established a five day period for comments, following publication in the Federal Register.

Key Actions in Implementation of DTV Delay Act

On February 13, 2009, the Commission's First Report and Order extended broadcasters' analog licenses and construction permits from February 17 to June 12, 2009 to reflect the extended DTV transition deadline.

The Second Report and Order extended broadcasters' pre-transition digital licenses to June 12, 2009 and also extended the licenses for entities that will be using the spectrum recovered after the TV stations complete their transition and terminate full power analog service for 116 days.

The Second Report and Order also:

- Extended the dates associated with the DTV consumer education requirements from the end of March through the end of June, 2009, to ensure that information continues to be provided by TV broadcasters, multi-channel video programming distributors (MVPDs), manufacturers, and eligible telecommunications carriers (ETCs)
- Revised the consumer education guidance text describing the DTV transition to include the new transition deadline and required MVPDs, manufacturers and ETCs to base their notices on the new text beginning on April 1, 2009. The new guidance text reads as follows:

The nationwide switch to digital television broadcasting will be complete on June 12, 2009, but your local television stations may switch sooner. After the switch, analog-only television sets that receive TV programming through an antenna will need a converter box to continue to receive over-the-air TV. Watch your local stations to find out when they will turn off their analog signal and switch to digital-only broadcasting. Analog-only TVs should continue to work as before to receive low power, Class A or translator television stations and with cable and satellite TV services, gaming consoles, VCRs, DVD players, and similar products.

- Required most TV broadcasters to begin airing a new 100-day countdown clock on March 4, counting down the days until June 12
- Ensured that broadcasters and 700 MHz Auction winners continue to report their consumer education efforts to the Commission on a quarterly basis through at least the second quarter of 2009
- Required all stations to update their Form 387 Transition Status Reports by April 16 to reflect their plans and timing for completing the transition
- Decided that the Analog Nightlight program, adopted by the Commission on January 15, 2009, pursuant to the Short-term Analog Flash and Emergency Readiness (“SAFER”) Act, will apply to allow TV stations to provide DTV and emergency information over their analog channels for 30 days after June 12
- Adjusted the timing for requesting extensions of deadlines for completing construction of DTV facilities, if necessary

Notice of Proposed Rule Making seeks comment on the following tentative conclusions and proposals:

- Whether major network affiliates that want to cease analog broadcasting before June 12 may do so 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”), and

2) the station commits to providing outreach and assistance concerning the transition in its community, such as telephone call centers and walk-in centers to assist with installation of converter boxes.

- Whether stations that want to cease analog programming before June 12 must broadcast specific viewer notifications for more than 30 days prior to termination and air additional crawls for seven days prior to termination
- Whether stations that are unable to certify to the required analog coverage and public interest conditions may attempt to demonstrate extraordinary exigent circumstances, subject to the Commission's review
- Whether stations may terminate analog service on June 12 at any time of day provided they inform the Commission and their viewers in advance if it will be earlier than 11:59:59 p.m.
- Whether broadcasters may adjust their 100-day countdown consumer education requirements to reflect the timing appropriate for individual stations that will transition before June 12
- Whether to require an additional 30 minute informational video between now and June 12
- Whether the consumer education requirements for broadcasters should be amended to require disclosure if 2 percent or more of the station's analog viewers are not expected to receive the station's digital signal due to the station's shift in coverage area
- Whether stations must also remind viewers of the need to rescan if the station's channel has changed or will change
- Whether broadcasters' consumer education requirements should be waived after June 12 for any stations that participate in the Analog Nightlight program.