

**AMINA FAZLULLAH,
MEDIA AND TELECOMMUNICATIONS STAFF ATTORNEY,
UNITED STATES PUBLIC INTEREST RESEARCH GROUP
U.S. HOUSE SUBCOMMITTEE ON TELECOMMUNICATIONS
“STATUS OF THE DTV TRANSITION - PART II”
OCTOBER 17, 2007**

Chairman Markey, Ranking Member Upton, and members of the Committee: I am Amina Fazlullah, Media and Telecommunications Staff Attorneyⁱ for the United States Public Interest Research Group (U.S. PIRG). U.S. PIRG is the federation of state Public Interest Research Groups -- non-partisan, non-profit public interest advocacy organizations based in 30 states. On behalf of our members across the country I want to thank you for the opportunity to testify in today's hearing on the upcoming digital television transition.

It's been nearly two years since Congress established the official transition date from analog T.V. broadcasting to digital, yet virtually no U.S. consumer knows what will happen on February 17, 2009. On that date, television broadcasters will switch from analog to digital signals. The transition offers the country the return of valuable, "beach front property" spectrum that can be used to enhance emergency communications, spur innovation and improve broadband connectivity.

One other thing will happen on February 17, 2009. Every consumer who watches over-the-air TV with an analog set will have their set go dark. Including in the estimated 22 million consumers in this category are 8 million households with at least one member older than 50.

The government is of course at least aware of this problem. Congress has allocated funding for an education program. The relevant agencies have required that manufacturers stop producing new analog televisions and that retailer properly label the remaining analog televisions at the point of sale. Congress has also allocated funding to provide coupons to help consumers pay for the necessary converter boxes to get their analog television sets to work again.

Yet, based on preliminary U.S. PIRG research, which we will discuss today, neither government nor retailers are adequately preparing consumers for the impending DTV transition.

Unfortunately, the vast bulk of the governments' efforts have been focused in a lopsided manner on the future uses of the television broadcast spectrum and not on the very concrete and serious problems that arise from the DTV transition.

It is U.S. PIRG's view that neither the government nor retailers are doing enough to ensure adequate DTV education, to make sure converter boxes are made available at fair prices and that consumers are informed of the availability of coupons.

This lack of attention comes despite clear signals that the DTV transition poses a

nationwide problem on the level of the Y2K threat, however unlike the over-hyped Y2K threat, the DTV transition comes with guaranteed and identified problems for millions of our country's most vulnerable consumers, again, including a disproportionate number of older Americans.

Over the past year, key members of Congress, Commissioners of the Federal Communications Commission (FCC) and the staff of the U.S. Department of Commerce's National Telecommunications and Information Administration (NTIA) have all echoed the same concerns – that the transition is coming but we still do not have a comprehensive national education strategy to prepare consumers. Our country is now about 16 months away from the transition. While industry stakeholders (broadcasters, cable manufacturers and retailers) have made promises to provide point of sale notices, prepare retail staff and broadcast public service announcements – this is too large of a problem for our government to rely on mere promises.

We welcome the fact-finding aspect of congressional hearings and agency workshops but we need government to act swiftly and begin to enforce an extensive education campaign.

U.S. PIRG has identified three major hurdles that must be met to begin to address the DTV transition properly.

- (1) **All consumers across the country must be notified of the transition.** There is precious little time left in 2007 and as the election year begins to kick into high gear it will be difficult to gain the attention of the public. It takes time and near constant repetition to get a message across on a national scale. Government must step in and ensure that PSAs are broadcast at peak hours both early and often. Government must also utilize existing government programs that reach out to at-risk households to provide paper notice of the transition and the coupon program.
- (2) **Any retailer that will be carrying the converter boxes must provide DTV transition training to prepare staff.** The estimated 22 million consumers that will be left in the dark come February 2009 are less likely to have access to online materials and most will likely seek out face to face advice. Retailers will be on the frontlines of the transition. Government must ensure that retailers adequately train personnel and enforce penalties against companies that misinform and abuse consumers to reap greater profits from sale of unnecessary TVs to people who could get by with a low cost converter box. According the FCC converter costs will net out at \$20 - 40 per TV after the estimated retail cost of \$60 - 80 for a converter box is offset by the \$40 value of a coupon¹ \$20 - 40 dollars is certainly a lot less than \$320², the estimated cost of a 32 inch digital TV.
- (3) **Cable subscribers must be protected:** For the 40 million cable subscribers that

¹ <http://www.ntia.doc.gov/dtvcoupon/consumer.html>

² <http://www.bestbuy.com>, Dynex® - 32" 480i Standard-Definition Digital TV Model: DX-R32TV SKU: 8205694

have a total of 120 million analog sets³ hooked up to cable services, government must ensure that cable companies do not use this opportunity to impose lifetime rate hikes or attempt to use the DTV transition as an excuse to force consumers into higher-cost cable packages.

Safety, Media, and Democracy at Risk

More Americans choose local television news as one of their top three sources for news than any other form of traditional or new media, according to The Future of News Survey conducted for the Radio and Television News Directors Foundation⁴. At risk in the transition is not just the ability of older Americans to access entertainment but news and emergency information. There will be a great consumer outcry if the millions of Americans who rely on free TV wake up after February 17, 2009 and find that their TVs have gone dark and simply don't work.

In the confusing weeks and months that after the transition it will become even harder to reach out to populations that already utilize only a few methods of communication.

Protecting Consumer Transition Dollars

A successful digital television transition will requires that government takes concrete steps to ensure that all stakeholders act in goodfaith on their promise to participate in the transition. Beyond plans to educate consumers we must think about how to deal with bad actors in this time of transition. With 890 million government dollars⁵ set aside for the coupon/converter box program it is incumbent upon government to ensure that consumers are provided with accurate information as they decide to spend for the transition.

The 22 million viewers of over the air analog television will face an expensive choice to continue to receive a television signal: subscribe to cable or satellite, buy a digital television set, or purchase a digital-to-analog converter box through the NTIA coupon program or purchase a converter box at cost without assistance from the government through its coupon program. All of these options cost money. For families on a fixed income or operating on low incomes, even an inexpensive converter box can cost more than a week's food budget.

Industry Efforts And Preliminary U.S. PIRG Research Findings

Industry stakeholders have made substantial promises to inform the public. While U.S. PIRG agrees that this transition cannot be successful without the support of industry we believe that industry's participation must be mandated and closely monitored to ensure that consumers a fully protected throughout the transition.

³ September 11, 2007, Statement of Chairman Kevin Martin In the Matter of *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, CS Docket No. 98-120, Third Report and Order and Third Further Notice of Proposed Rulemaking

⁴ 2006 The Future of News, the Radio and Television News Directors Foundation

⁵ http://www.ntia.doc.gov/otiahome/dtv/DTVFactSheet_Contract_070815.html

As of August 2007 U.S. PIRG completed a preliminary study that surveyed the top five electronics retailers in the DC Metro area. Our initial findings based on interviews with clerks and supervisory personnel are alarming and show that despite industry promises to educate and prepare personnel all five retailers had personnel that provided inaccurate or even misleading information. The study is based on surveyors posing as consumers.

Our surveyors found that: when asked, retailers did not acknowledge the existence of converter boxes or the coupon program. In many cases the retail staff told surveyors that to continue to receive broadcast signal a consumer's only choice would be to buy a brand new television or even an upgraded HDTV set (a more expensive High-Definition TV HDTV is not necessary to receive Digital or DTV signals).

In a Virginia area Walmart our surveyors were told that their only option was to buy a brand new HDTV or sign up for cable service.

In a Virginia area Bestbuy our surveyors were told that upcoming transition meant that signals would now all be "HDTV signals" and consumers would have to buy a brand new HDTV to continue getting over the air television.

In a Virginia area Bestbuy our surveyors were told that to continue receiving television signals after the transition they would have to purchase a useless HDTV tuner (costing \$170).

In a Virginia area Target our surveyors were told of the converter boxes but were told there was no discounts, that there was no government program and that a brand new digital television set would actually be cheaper than the converter box in initial cost.

In almost every store surveyed we found a number of analog television sets on the shelves, sometimes labeled on the box or on the shelf but in all stores it could be easy for a consumer to miss the warning labels. Throughout the fall and this year's holiday shopping season it is crucial that bargain-hunting shoppers aren't duped into purchasing a slightly discounted analog television set when they'll have to purchase a converter just months later.

Our surveys were designed to account for a lack of boxes on the shelves and the unknown manager of the coupon program. Bestbuy was the only store provided print information (in both Spanish and English), unfortunately their store representatives had clearly not read the brochure and was unable to repeat or event reference the brochure. While all stores knew of the transition and the February 2009 deadline all top five retailers had personnel that switched standard definition digital televisions with high definition televisions. At no point in time did any of the personnel from any of the stores tell us that they weren't familiar with the details of the switch or directed us to any help-lines, managers, materials or websites.

Despite FCC efforts to root out stores in violation of labeling requirements our PIRG

researchers found a number of stores still in violation of the requirement. Upon the conclusion of our nationwide report we will file a detailed complaint listing every store that our limited PIRG researchers found in violation of existing labeling laws.

These preliminary results demonstrate the need for strong government oversight into industry efforts in the DTV transition.

Funding the transition

U.S. PIRG is also skeptical about the success of these efforts without additional resources. In prior House and Senate Commerce testimony on the DTV transition members of Congress highlighted the fact that the city of Berlin Germany set aside the more money to transition their city than the United State's has for the entire country. In the United Kingdom the government has phased in the transition over multiple years (2008-2012⁶) and through their substantial preparation efforts are estimated to complete their transition ahead of schedule.

If Congress wants the digital television transition and coupon program to succeed, it must adequately invest time and resources in an educational program that truly leaves no community behind. We strongly urge Congress to supplement the amount of funding for consumer education efforts.

Employing Government Muscle

While both NTIA and the Federal Communications Commission are committed to educating consumers about the transition and the coupon program, a public education effort of this magnitude should not be limited to only a few agencies.

- Ensuring a successful transition will require public education at the national, state, and local levels.
- At a minimum, every federal agency should be required to participate in educational outreach, and if possible, serve as a site where coupons can be distributed.
- Utilizing current federal programs to contact at risk populations is one effective way of reusing programs in place to access a variety of communities.
- These efforts should also be replicated at the state and local level franchise authorities. If a small increase in franchise revenues to the local authorities could cover the costs of a one-year program to notify all consumers in a local franchise area.

Conclusion

We have only a few months to ensure that the benefits of the transition don't come at a cost to our most vulnerable consumers. Yes, the return of spectrum holds exciting new

⁶ <http://www.digitaluk.co.uk/en/when.html>

opportunities for nationwide broadband or new wireless services. Yes, the quality of picture quality will improve with the transition to digital signals. However, before we jump ahead to the boons of the transition we've got to put the time, effort and resources into preparing consumers for the day their TV will go dark. If we don't find a way to communicate to our most vulnerable consumer how and when to transition we run the risk as a country of shutting off democratic debate and crucial emergency services to low income, rural, minority and older Americans.

Thank you for both the opportunity to speak today and for your leadership as we move forward in addressing the digital television transition. I look forward to answering any questions you may have.

¹ Bar Pending, Sat for New York Bar July 2007, <http://www.uspirg.org/about-us/staff/staff/fazlullah#ho1OqT0G-9sldjgDnjyqkw>