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**CLIENT UPDATE**  
**February 12, 2009**

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**The New DTV Transition Date and FCC Notice Obligations:**  
**What's A Cable Operator To Do?**

Yesterday, President Obama signed the DTV Delay Act, scrapping the long-awaited analog shut-off date of February 17, 2009, and pushing the DTV transition out to June 12, 2009. At the same time, hundreds of broadcasters have notified the FCC that they intend to cease analog transmission before June 12, with many of those still planning to pull the analog plug on February 17. In the midst of all this activity, FCC regulations still require cable operators to provide specific monthly notices to all subscribers, including that analog signals will cease on February 17.

That leads us to the following question: What's a cable operator to do?

Neither the DTV Delay Act nor FCC regulations provide a clear answer. Each cable company will need to make a decision on how to address this. With this Client Update, we offer some information and suggestions that cable operators may want to consider in preparing "new, improved" DTV transition notices.

Currently, FCC regulations obligate cable operators to provide subscribers with information about the DTV transition in monthly bills or bill notices until March 2009. This includes identifying the DTV transition date as February 17, 2009. With the DTV Delay Act, this regulatory obligation no longer makes sense—but it remains a regulatory obligation nonetheless.

We have consulted with FCC staff, and they recognize the conflict between the new DTV transition date and the existing DTV transition notification requirements. Still, it is unlikely that the FCC will act to change the regulations in the near term—especially with the original February 17, 2009 DTV transition deadline only days away.

To address this conflict in the regulations, cable operators might consider continuing to issue monthly notices that include the information required under the FCC notice regulations, reflecting the new analog shut-off date, and notifying subscribers that some stations may be transitioning early. A notice like this would include the following information:

- Reflect the new June 12, 2009 DTV transition date.
- Some full-power television broadcast stations will still be transitioning to digital-only signals on February 17, 2009, despite the changed DTV transition date.
- After June 12, 2009, a television receiver with only an analog broadcast tuner will require a converter box to receive full power over-the-air broadcasts with an antenna because of the Nation's transition to digital 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.
- Information about the DTV transition is available from <http://www.DTV.gov> or this MVPD at [telephone number and Web site if available], and from <http://www.dtv2009.gov> or 1–

888–DTV–2009 for information about subsidized coupons for digital-to-analog converter boxes.

- Explain clearly what effect, if any, the DTV Transition will have on the subscriber's access to MVPD service. It must also note that analog sets not connected to an MVPD service may need additional equipment (*i.e.*, converter box) or may have to be replaced.

A list of broadcast stations that are planning to terminate analog service on or before February 17, 2009 is available on the FCC's website at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-09-221A3.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-221A3.pdf), and [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-09-221A5.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-221A5.pdf).

In the face of a lack of clear guidance on DTV notice obligations after the DTV Delay Act, we believe that a notice including the above information will, at the very least, demonstrate a good faith effort to comply with FCC regulations.

If you have specific questions about the FCC's DTV transition notification requirements, please call Jeremy Kissel at 202-609-7793.

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