

TESTIMONY

Of

DENNIS SWANSON

**President of Station Operations
Fox Television Stations, Inc.**

Before the

**Subcommittee on Telecommunications and the Internet
of the Committee on Energy and Commerce
U.S. House of Representatives**

On the

"Status of the DTV Transition - Part 3"

Wednesday, October 31, 2007

Chairman Markey, Ranking Member Upton, and Members of the Subcommittee:

Thank you for this opportunity to testify today on the digital television transition. My name is Dennis Swanson and am I appearing on behalf of Fox Television Stations, Inc., (FTS) where I serve as President of Station Operations. FTS is a group of 35 television stations in 26 markets throughout the United States, including WFXT-TV in Boston, WNYW-TV in New York, KTTV-TV in Los Angeles, and WFLD-TV in Chicago. Our stations are primarily affiliated with the Fox Broadcasting Company, but ten are affiliated with the fledgling MyNetworkTV.

As this Subcommittee is well aware, Congress mandated that broadcast television stations abandon the analog airwaves and begin broadcasting exclusively in digital by February 17, 2009. This switch to digital television will bring many benefits to viewers, in the form of greatly enhanced pictures, sounds, interactive video and data services. In the remaining 15 months until the transition occurs, Fox will be working with others in this and related industries toward a successful transition, characterized by minimal disruptions, and maximum benefits.

From the outset, Fox has strongly supported the digital television transition, and took the mandate to deploy digital broadcasting, especially in HD, very seriously. Antiquated analog broadcast equipment was abandoned, millions of dollars were spent and thousands of man-hours were expended to build out brand new digital facilities and infrastructure. Fox worked with numerous vendors and manufacturers to design and build new digital cameras, Dolby audio equipment, production trucks, splicers, editing

machines, digital recording equipment, and satellite systems. The culmination of those early months of planning and work was the realization of an all-digital network broadcast center which is fully HD-capable to transmit content and commercial traffic to all Fox affiliates. The experience also provided Fox with a transition blueprint to help our owned stations as well as our affiliate partners to build their digital facilities so that viewers would be able to receive network and local programming in the new digital world.

In the Fall of 2004, Fox began televising many of its exclusive live sports events in HD. Since that first HD telecast, Fox has produced and distributed more than 1,000 hours of sports in HD. Our coverage has included weekly sports programming from the NFL, MLB, and NASCAR, as well as major sporting events like the Super Bowl, World Series and Daytona 500. We knew that providing programs that consumers value in HD would help drive them to buy new digital television sets. And that is what happened.

Being the home of prime-time hits such as "House" and "American Idol," we also knew that viewers would not be fully satisfied without high-quality entertainment programming and, as a consequence, Fox has aired approximately 1,300 hours of HD programming in prime-time from September 2004 to August 2007 including 100 percent of our scripted shows.

In addition to the operational build-out, a significant consumer awareness and education effort is necessary to facilitate the transition. Once again, we at Fox have pledged to commit considerable resources in support of the industry's collective effort to

alert viewers. Earlier this month, the broadcast industry announced a comprehensive \$697 million consumer education campaign. The campaign envisions a multi-faceted approach to reach television viewers. Fox was one of 95 broadcasting companies representing 939 television stations nationwide that specifically endorsed this plan.

In order to make this important information widely available, we have committed to the airing of a public service announcement (PSA). The PSA provides information about the transition, and refers consumers to the useful website www.DTVAnswers.com and toll-free hotline at 888-DTV-2009. They are already running during prime time on the Fox network and on each of our 35 Fox-owned stations.

We strongly believe that a voluntary industry plan is the most effective way to reach the public. Why? Because it recognizes that getting the message out is about more than just public service announcements (PSAs). It is about all the creative things we as broadcasters can do to reach our viewers, whether it is through our news or public affairs programming, through creative campaigns, such as giving away digital TV sets on our morning news shows, providing a link for information on the DTV transition on our website, or airing PSAs on Fox All-Access, a syndicated radio station that airs in more than 100 markets every week. *Broadcasters* are in the business of reaching viewers, with both entertainment programming and important news and information that needs to be conveyed. Therefore, *broadcasters* are the most qualified to determine how to reach viewers with the message about the DTV transition.

Additionally, Fox intends to extend our consumer education outreach to those groups that may be most directly impacted by the transition. Nearly 34 percent of Hispanic households and 27 percent of African-American households rely solely on over-the-air transmission for their television viewing, as opposed to only 14 percent of Caucasian households. It is clear from these numbers that the DTV transition will disproportionately affect communities of color as well as other socially and economically disadvantaged segments of the population.

With the assistance and expertise of our Diversity Development Group, we are working on a grassroots effort to partner with local and national minority public interest organizations to disseminate materials and information in English, Spanish, and Asian dialects on the upcoming digital transition. Furthermore, we intend to dedicate a prominent section of our diversity development website to educating and guiding consumers through the DTV transition. We believe that this is the right thing to do. And we at Fox also believe that as a responsible broadcaster, it is good business to serve the needs of all segments of the communities of which we are a part.

It bears restating that the DTV transition will be successful if benefits to viewers are maximized while disruptions are minimized. Two issues have the potential to disrupt the transition: unlicensed, so-called "white space" devices in the television broadcast band and protection of broadcast content from unauthorized redistribution over the Internet.

With regard to the white space issue, Fox supports the use of *fixed* devices in the spaces between television signals (hence the name "white spaces"). However, we have grave concerns about introducing *personal and portable* unlicensed devices in the television broadcast band. We are concerned that interference may disenfranchise millions of consumers who have purchased expensive new digital television sets only to find that they do not work. Even small amounts of interference can render a perfect digital picture unwatchable, thereby making the benefits of sharper pictures and crisper sounds meaningless.

In fact, the portable white space devices developed to date have failed to pass muster at the Federal Communication Commission (FCC), which concluded that "[w]hite space devices submitted to the Commission for initial evaluation do not consistently sense or detect TV broadcast or wireless microphone signals."¹ Because the devices are unlicensed, it would be impossible to correct any interference problems once the devices are in the hands of consumers. A neighbor's use of this device could interfere with your television set, but you would have no idea where the interference was coming from, and your neighbor would not know he is interfering. The potential levels of interference from unlicensed devices could result in irreparable damage to the digital television band and undermine consumer confidence in digital technology.

The transition also could be negatively impacted if the broadcast flag is not adopted to help protect high-quality broadcast programming from being illegally

¹ *Office of Engineering and Technology, Federal Communications Commission, Initial Evaluation of the Performance of Prototype TV-Band White Space Devices, July 31, 2007 at x.*

redistributed over the Internet. Currently, DTV stations are legally obligated to broadcast content in-the-clear with no protection (*i.e.*, unencrypted). As a result, content providers, networks and broadcasters face a grave threat from rampant piracy and theft due to the fact that perfect copies of digital programming can be easily captured and retransmitted without authorization. Interestingly, cable, satellite and Internet Service Providers offer a wide variety of content protection systems. Not so with broadcast digital television, which suffers from an absence of effective broadcast flag regulation.

This imbalance ultimately places the long-term viability of free over-the-air television service in jeopardy. Prime-time ratings winners for Fox, like "Prison Break," "House," "American Idol," and "24," as well as live sporting events, are snatched out of the air and illegally disseminated over the Internet, or illegally uploaded to peer-to-peer sites. These programs are, of course, the currency of the free over-the-air broadcast business model, which relies on high quality programming to attract and retain viewers, and the support of advertisers to help pay for programming.

Broadcast flag regulation will have little or no impact on consumers' legitimate consumption and enjoyment of over-the-air digital television. It allows for consumers to make copies of their favorite shows, use home networking and remote access technologies, as well as new technologies that have not yet even been conceived. In addition to protecting local broadcasting and helping to ensure the viability of the digital transition, the broadcast flag will stimulate American technological prowess in content protection and management technologies.

So Fox would appeal to the members of this Subcommittee to support legislative language to provide the FCC with the legal authority to reinstate broadcast flag regulation.

In closing, I would note that we are in the home stretch of a hard fought race. We will continue to work, in the remaining days, to realize our collective goal of a bright future for digital television. We at Fox applaud Chairman Markey and Congressman Upton for holding this hearing today, and look forward to working with this Subcommittee to bring the transition to a successful conclusion.

Thank you for the opportunity to appear today, and I welcome your questions.