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## A FORUM FOR IDEAS, COMMENTARY AND OPINION

## **EDITORIAL**

## **Merger Creates Risk**, **but Also Opportunity**

Press Roon

he ramifications of the merger of The WB and UPN are being felt from New York to Hollywood to Glendive, Mont.-the nation's smallest designated market area (No. 210), home of a single WB 100+ station.

Employees of either network whose jobs are redundant fear unemployment; even those with unique jobs are fretting about the possibility of new bosses and their odds of survival in a new political landscape. Producers are concerned that their shows won't make the cut for the new combined network schedule, and station owners are grappling with the benefits of affiliation with The CW versus programming their schedules themselves.

The fact is nobody knows exactly how the chips will fall, and as a result the air is thick with anxiety.

But it's important to remember that good things can and do come from change, and that only with change is progress possible.

Because it is so far-reaching, with tentacles webbed throughout the country like a central nervous system, the TV industry is basically a family. It's a business comprising a multitude of interdependent relationships, all built on mutual need. Those relationships will come into play as their individual members endure the throes of this singular enormous change in an industry already reeling from the widespread changes brought on by technology and corporate economics.

Times like these no doubt produce casualties, but many of the people displaced by the new world order will find their way into developing areas of the business: the spate of new delivery platforms that are serving to reinvent the way we watch television. Segments of the television workforce will be redeployed into positions in a wide range of new media, and as those people blaze the trail into television's new frontier, their relationships will follow them.

Stations that don't strike affiliation deals with The CW will recharge the syndication marketplace with their need for programming, and they just might find that independence puts them in a more lucrative proposition. And those stations that do affiliate with The CW may find that the combined schedule serves them much better than either The WB's old schedule or the old UPN schedule alone.

We like to think that a win-win resolution is not only possible but also probable.

Eventually, there will be room for everyone at the table. Right now, it's just a matter of rearranging the seating.

## QUICKTAKES BY NAOMIE WORRELL What source material would make a successful African American hour drama?



"Code of Honor,' an original and unproduced screenplay by Jack Smith. 'Code of Honor' tells the story of a black woman slave working inside the home of Confederate leader Jefferson Davis during the Civil War who acted as a spy for the Union Army. Each episode will

give life to the dramatic activities of this slave and many other blacks who fought in different ways to win their freedom."

Bob Reid, executive VP and network general manager, The Africa Channel

"I search for material, regardless of the source, that not only has depth for serial story lines but also reflects diverse and underrepresented voices among African Americans. Authentic characters lay the framework for compelling drama."



# **GUEST COMMENTARY** By Scott Feira With DTV Conversion, evil's in the Details

Earlier this month President Bush signed legislation that set Feb. 17, 2009, as the completion date for the digital television transition. On that date analog television broadcasting will end and analog-only TV sets will be unable to receive over-the-air signals unless they have been connected to a settop box that converts digital signals to analog signals.

A \$1.5 billion program has been created to educate consumers about the DTV transition and to subsidize their purchase of converter boxes. This program will need to be managed deftly so that come Feb. 17, 2009, the millions of Americans who need converter boxes will have them and their access to television broadcasting will not be interrupted.

The biggest challenge may be educating consumers about the DTV transition. Consumers first will need to understand whether their televisions sets will be affected. Most television sets will not be—there are no more than 80 million of the 285 million television sets in the United States receiving analog over-the-air broadcasts, according to the National Association of Broadcasters. The rest are connected to cable or satellite or are integrated digital sets or are used exclusively to watch videos or play games, and those sets do not need a converter box.

Consumers who own the affected sets need to understand that they must do something to continue to receive broadcast signals after Feb. 17, 2009-either get a converter box, upgrade to an integrated digital set or connect their set to satellite or cable.

In the first major DTV transition, which occurred in Berlin in 2003, consumer education efforts were extensive-a mailing to every household, a hotline, flyers, newsletters, a Web site, advertisements on buses and subways and scrolling television messages. Almost \$1 million was spent to educate 3.4 million Berliners. This sort of effort will not be possible in the United States-only \$5 million has been appropriated to educate almost 300 million Americans. Figuring out how to best use these limited funds and to enlist the private sector in disseminating accurate information about the DTV transition will be crucial.

### Who Gets the Boxes?

A second major challenge will be getting the subsidized converter boxes to where they are needed most. The \$1.5 billion that has been appropriated for the converter box program will, after administrative expenses, allow for about 33.5 million coupons to cover \$40 of the estimated \$55 cost of each converter box. With no more than about 20 million households dependent on over-theair broadcasting as their sole

**Every house**hold is eligible to participate, with those not needing converter boxes potentially able to buy them with coupons and resell them at a profit.

source of television program delivery, according to the Government Accountability Office, the program is theoretically large enough to get at least one subsidized converter box to each household at risk of losing access to programming in the DTV transition. The challenge is how to get the owners of these sets to the front of the line for subsidy coupons, ahead of the owners of the up to 60 million other sets that may be affected by the DTV transition.

Several features of the program, however, make it less likely, rather than more likely, that the coupons will go to those most in need. The law that authorizes the program does not prioritize distribution of the coupons based on whether over-the-air broadcasting is a household's only source of programming or based on a household's income. Indeed, the law does not even restrict distribution of the coupons to households that have a television that receives over-the-air signals.

Every household is eligible to participate on what apparently will be a "first come, first served" basis, with those not needing converter boxes potentially able to buy them with coupons and resell them at a profit. Moreover, each household may request up to two coupons, which means that fewer than 17 million households could end up participating.

#### **Deliberate Difficulty**

The process for obtaining coupons will be deliberately cumbersome. Coupons will not be mailed to every household automatically or made available at post offices, for example. Instead, consumers will have to make a request for coupons, which will then be sent to them via the U.S. Postal Service.

While this complexity is intended to discourage those who do not need a subsidized converter box from getting one, the effect may be just the opposite. Those consumers best equipped to navigate this morass may not be those whose only access to programming is through over-the-air broadcasting. Similarly, the coupon program is supposed to make use of the Internet where possible, and again, this may have the effect of giving preference to those least in need of the coupons.

The agency that is charged with implementing the converter box subsidy program, the National Telecommunications and Information Administration, soon will solicit public comment on detailed rules to implement the converter box subsidy program. All those who are concerned about the potential loss of access to over-airbroadcasting should consider offering their ideas.

Scott Feira is a partner in the telecommunications practice of the law firm of Arnold & Porter in Washington.

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