



It's good news and bad news for digital switchover

By Peter Vogel* 30 May 2008

Last week's announcement that TiVo will be launching in Australia with no monthly fee is great news for both consumers and Government as well. Having used TiVo for the past 5 years, I can confirm that there are good reasons it has over 4 million users in the USA. I've used a number of other PVRs (personal video recorders) as well and none come close to TiVo's reliability and ease of use.

Since leaving IceTV in 2006 I've been championing the idea of a free PVR service, like TiVo but without the subscription. The monthly fee, even if only \$10 a month, would kill the product in Australia where the mentality of "free-to-air means FREE" is firmly entrenched.

If the new TiVo offering is actually free, no strings attached and the box is reasonably priced (that is under the magic \$500), TiVo will take Australia by storm.

Now the bad news

The Rudd government has announced that the present (analog) TV system will be shut down in capital cities starting at the end of 2009. At present only 30% of Australia's 20 million TVs are capable of digital reception, which means 14 million opportunities for a digital upgrade. The cheapest fix is a set-top-box for as little as \$50, but for the viewer that has little appeal as most are quite happy with what they've got now.

On the other hand, a PVR such as TiVo offers dramatic benefits which have proven to be a strong motivator to go digital in other countries.

The back-of-the-envelope calculation says that to upgrade just 10% of Australia's TVs through a PVR, 1.4 million PVRs must be supplied in the next couple of years. At \$500 each, that's a \$700m market (not counting flow-on revenues), with plenty of opportunity for a number of players to do very nicely.

The outlook for the PVR industry and hence consumers is not so bright, mainly due to the firm grip the broadcasting industry has on key commercial levers which they can and have used to control the deployment of PVRs in Australia.

Most importantly, PVRs rely on an EPG (electronic program guide) to deliver their greatest benefit — the ability to record programs for later viewing by simply clicking on the name of the show.

Until recently, the only EPG available for use with a range of PVRs in Australia has been from local startup IceTV. IceTV's EPG, launched in July 2005, was the first commercial EPG in Australia which inter-operated with various PVRs to enable one-click scheduling. Suddenly PVRs and computer-based media centres, such as Microsoft's, were no longer crippled by lack of EPG.

While the IceTV service was still in testing phase in May 2005, Seven challenged IceTV over copyright of their schedule but after reviewing IceTV's methods took no further action. In April 2006, Nine took IceTV to court. In August 2007, Nine lost the first round with judgement in favour of IceTV. However in May 2008, Nine won an appeal.

The short story is that the court found that Nine's time and title information is, even on its own, a copyright work and that by recreating a similar schedule, IceTV had indirectly copied Nine's work. The ruling seems to say that **no matter how** the schedule is reproduced, copyright will be breached, because one way or another anyone reproducing Nine's schedule must indirectly "appropriate" Nine's "sweat of the brow".

This ruling means that it is unlikely anyone will be able to offer an EPG service without the blessing of all the broadcasters. At first blush this seems to be consistent with the networks' obligation to maximise profits and return for shareholders. However that

depends on how they use their power to regulate the industry. A knee-jerk assumption that PVR proliferation is bad for business would be a serious mistake. I will be expanding on this in a future Briefing Note in which I explain how PVRs can be the free-to-air networks' salvation.

Unless the networks play their card right, the loss of an independent EPG supplier could have dramatic implications for their own bottom line as well as the nascent PVR industry.

EPG essential in multi-channel world
Point-and-click recording is already a big drawcard, but as the number of free-to-air channels increases through digital switchover, an EPG will become a must-have. Without it, finding the program you want would be difficult and correctly setting a recording nearly impossible.

The Rudd government has announced that from January 2009 commercial broadcasters will be allowed to transmit a second standard definition channel, in addition to their present standard and high definition channels. The ABC and SBS are already multi-channeling.

The U.K. now has over 40 digital free-to-air channels and without a comprehensive EPG navigating this would be a nightmare.

The need for competition
With the difficulties faced by independent players like IceTV, Australian viewers could miss out on some of the media innovations taken for granted elsewhere in the world, and there is no sign of regulatory relief.

Broadcasters were once required, as a condition of their licence, to at least provide each other with scheduling information in case one of them wanted to construct an EPG. However the Broadcasting Legislation Amendment (Digital Television) Act of 2006, removed the legislative requirement altogether, stating that the EPG "may be dealt with by industry codes and industry standards".

Industry body FreeTV Australia has since announced that the networks will provide an EPG for use with PVRs, however they reserve the right to lay down the conditions under which manufacturers will be licensed to use it. Not surprisingly, they also reserve the right to withdraw their license at any time.

The conditions announced to date are not unreasonable. For example, PVRs must not have a "skip" function which makes it easy to skip ads, but they can have 64X fast forward. PVRs must also be secured so that it is impossible to copy recordings off the hard drive.

Provision of EPG is voluntary, not mandatory, and the networks are understandably motivated by profit and competitive advantage rather than viewer convenience.

The networks' EPG will probably not be made available for use with Microsoft Media Centres or internet-capable PVRs which are now becoming popular.

What is a PVR?



A PVR (Personal Video Recorder) is basically a digital replacement for the obsolete VCR, but offers many other benefits, including:

- Records hundreds of shows on its internal hard drive, no tapes or DVDs required
- Lets you watch digital TV on your old analog set
- No need to set timers to record, just click on the names of the shows you want
- Automatically record all episodes in a series

Best known brands include TiVo and Foxtel IQ.

An EPG (electronic program guide) overcomes the age-old problem of scheduling recordings. The EPG can take various forms such as an alphabetical list of shows, or a grid like this:

GUIDE		2:53 PM			
Wed, 12 Jul	7:30 PM	8:00 PM	8:30 PM	9:00 PM	
2 ABC	The 7.30 Report	The New Invent	Spicks & Specs	Absolute Pow	
3 SBS	Help	Two Of Us	Dateline		
7 Seven	Beyond Tomorrow		Prison Break		
9 Nine	McLeod's Daughters		Without A Trace		
10 Ten	Honey, We're Killing The Kids		House		
21 ABC2 Dig	Four	MI	The Cook And	Australia Wide	Catalyst
33 SBS World	Greek News	Italian News	Indonesian New	Mandarin	

Spicks & Specs
The world of music exposed like never before. Comedian Adam Hills leads two teams through different rounds of...
● This program will record

No matter how the guide is displayed, the PVR is instructed to record the show you want by a simple point-and-click process using the remote control.

Services like "IceTV remote" which let you schedule your recordings from outside the home via a website or mobile phone will also be disqualified and in light of the recent copyright ruling, these devices and services will be left out in the cold.

Foxtel offers a PVR called "IQ" which now has an interactive EPG provided by HWW Pty Ltd. HWW is licensed to aggregate and resell the networks' schedule, but the catch is that they are owned by NineMSN and are very selective about who they will license.

Another choice for viewers might be Freeview, a major brand in the UK which the local networks have decided to champion here in a bid to give Foxtel a run for their money. These PVRs will use the industry-controlled EPG which will come with strings attached.

Threat to Competition

Developments in Australian copyright law are working to strengthen the industry's control of what in most other countries is considered public information. Tight media ownership is further restricting competition in this market.

PVR manufacturers are likely to decide it's all too hard and give Australia wide berth. If that happens, it's not just the public that will lose out. Unless the TV viewing experience keeps pace with other competing media, such as video on demand and high definition DVDs, the trend away from TV towards online entertainment will accelerate.

The Copyright Act has finally been amended to make home recording legal. Perhaps a similar exemption for the means to make TV watching and recording a more pleasurable experience is also warranted?

The department charged with moving the digital switchover along might also consider amending the Broadcasting Services Act to require broadcasters to waive copyright on their schedules.

If the government really wants to start switching off analog TV at the end of 2009, consumers need to be given a very compelling reason to go digital. Experience in the UK and USA has shown that unrestricted access to EPG is an essential basic ingredient.



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About Lincoln Crowne & Company

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