



# NEWS

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## FCC ADOPTS RULES FOR CABLE CARRIAGE OF DIGITAL TV SIGNALS

### Also Requests Further Information Regarding Dual Carriage of Analog and Digital TV Signals

Washington, DC - The Federal Communications Commission (FCC) has adopted rules related to the cable carriage of digital broadcast television signals. In addition to resolving a number of technical and legal matters, the FCC's action clarifies that a digital-only TV station, commercial or non-commercial, can immediately assert its right to carriage on a local cable system. The FCC also said that a TV station that returns its analog spectrum and converts to digital operations must be carried by local cable systems.

This action is one of a series of steps to facilitate the transition from analog to digital television broadcasting. This transition will ultimately expand consumer choice of video programming and other services. The transition from analog to digital will allow for more efficient use of the spectrum that will permit new communications and video services in parts of the spectrum returned to the FCC for auction to new competitive providers.

The FCC's Report and Order resolves issues related to the cable carriage of digital broadcast signals including retransmission consent; channel capacity; signal quality; scope of signal carriage; material degradation; set-top box availability; channel location; market modifications; digital signal carriage on PEG channels (public, educational, government access channels); complaints and enforcement; subscriber notification; program exclusivity; and tiers and rates. Based on the current record, the Report and Order finds that for a digital-TV station, the "primary video" that is entitled to mandatory carriage includes a single programming stream and other program-related content. The Commission issued a Further Notice of Proposed Rulemaking (FNPRM) to define the scope of "program-related."

Regarding the issue of whether a local TV station may assert a right to carriage for both its analog and digital signals ("dual carriage"), the Report and Order tentatively concludes that, based on the existing record, such a requirement appears to burden cable operators' First Amendment interests more than is necessary to further a substantial governmental interest. The FNPRM seeks

further comment on this and a number of other issues necessary to develop the record in this proceeding.

The FNPRM asks several questions related to developments in the digital television marketplace, the answers to which will help determine whether a dual carriage requirement could survive constitutional scrutiny under the First Amendment. In addition, in conjunction with the requirement that cable operators carry material that is associated with the primary video stream, the FNPRM seeks comment on the proper scope of program related content in this context. For example, the FNPRM asks if "educational" program streams broadcast by noncommercial stations should qualify as "program related" in light of statutory language that applies specifically to noncommercial stations.

The FNPRM also raises questions concerning the applicability of the rules adopted in the Report and Order to satellite carriers under the Satellite Home Viewer Improvement Act of 1999.

In conjunction with the FNPRM, the Cable Services Bureau will survey cable operators to ascertain current and future system capacity and to gather information about retransmission consent agreements with broadcasters that include carriage of digital signals.

A summary of these issues is attached to this news release.

Action by the Commission, January 18, 2001, by Report and Order and Further Notice of Proposed Rulemaking (FCC 01-22). Chairman Kennard, Commissioners Ness and Furchtgott-Roth concurring in part and dissenting in part and issuing separate statements; Commissioner Powell issuing a separate statement and Commissioner Tristani dissenting and issuing a statement.

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#### CABLE CARRIAGE OF DIGITAL TV SIGNALS SUMMARY OF FCC RULES ADOPTED JANUARY 18, 2001

On January 18, 2001, the Federal Communications Commission (FCC) adopted rules resolving a number of technical and legal matters related to the cable carriage of digital broadcast signals. In its Report and Order, the FCC clarifies that a digital-only television station, commercial or non-commercial, can immediately assert its right to carriage on a cable system. The FCC also said that a TV station that returns its analog spectrum and converts to digital operations must be carried by cable systems.

This action is one of a series of steps to facilitate the transition from analog to digital television broadcasting. This transition will ultimately expand consumer choice of video programming and other services. The transition from analog to digital will allow for more efficient use of the spectrum that

will permit new communications and video services in parts of the spectrum returned to the FCC for auction to new competitive providers.

### Retransmission Consent

- \* A commercial television station, broadcasting in both formats during the transition period, may choose must carry or retransmission consent for its analog signal and retransmission consent for its digital signal. A DTV-only commercial television station may elect either retransmission consent or must carry.
- \* A DTV-only noncommercial station is also entitled to must carry. While a noncommercial television station does not have retransmission consent rights under Section 325 of the Act, it may nevertheless enter into digital carriage agreements with cable operators and other MVPDs.
- \* A DTV-only television station may make its retransmission consent/must carry election any time between 60 days prior to commencing service and 30 days after commencing service. If must carry is chosen, the cable operator must commence carriage 90 days after the election is made.
- \* A television station electing retransmission consent may negotiate with a cable operator for partial carriage of its digital television signal.
- \* The current prohibition on exclusive retransmission consent agreements encompasses a television station's analog and digital signals. This prohibition expires on January 1, 2006.
- \* For the time being, a television station may tie the carriage of its digital signal with the carriage of the analog signal as a retransmission consent condition. The Commission will monitor the marketplace for potential abuses.

### Channel Capacity

- \* The Report and Order revises the method of calculating a cable system's channel capacity to account for changes in digital technology. To determine whether the one-third statutory cap for the carriage of commercial television station signals has been met, a cable operator shall take the total usable activated channel capacity of the system in megahertz and divide it by three.
- \* The current statutory definitions of "usable activated channels" and "activated channels" will continue to apply in determining channel capacity in the digital context.
- \* A cable operator may choose which additional television station signals to carry if the one-third statutory cap is met. Digital television signals carried under retransmission consent count toward the cap.
- \* The current statutory framework for determining the carriage requirement for noncommercial educational television stations will continue to apply in the digital context.

### Signal Quality

- \* The Report and Order finds that the signal strength level necessary to provide a good quality digital signal at a cable system's principal headend

is -61 dBm.

### Content of Signals Subject to Mandatory Carriage

\* Primary Video. The Report and Order finds that the "primary video" entitled to mandatory carriage includes a single programming stream and other program-related content. The television station chooses which one of its unrelated multiplexed signals gets carried under the Act. The Further Notice seeks comment on how to define "program-related" in the context of primary video.

\* Ancillary or Supplementary Services. The Report and Order finds that a cable operator is not required to carry ancillary or supplementary services transmitted on a digital television signal.

\* Program-related. A cable operator would be required to carry the following material carried on a digital television signal because it could be considered program-related under the WGN factors: (1) closed captioning, (2) V-chip data, (3) Nielsen ratings data, and (4) channel mapping and tuning protocols ("PSIP").

\* Not program-related. A cable operator would not be required to carry internet and e-commerce services provided by a digital television station if such services are not related to the primary video television signal carried by the cable operator.

\* Electronic Program Guides (EPGs). Whether a cable operator would be required to carry electronic program guides is subject to a fact-based program-related analysis.

### Substantial Duplication

\* The Report and Order defers further interpretation of "substantial duplication" in the digital context until the Commission decides the dual carriage matter. In the meantime, the current duplication definitions apply.

### Material Degradation

\* The Report and Order finds that a cable operator would not necessarily be materially degrading a digital television signal if it carries less than the full 19.4 mbps transmitted by a broadcaster.

\* The Report and Order finds that a cable operator may not carry a digital television signal in a lesser format or lower resolution than that afforded to a non-broadcast digital programmer carried on the cable system. However, a digital-only television station may demand that a cable operator carry its digital signal in an analog format without the prohibition against material degradation being violated. If a television station chooses to be carried in this manner, it is treated in the same manner as an analog signal.

\* Cable operators are permitted to remodulate digital broadcast signals from 8 VSB to 64 or 256 QAM. Cable operators are not required to pass-through 8 VSB.

### Set-Top Box Availability

\* The Report and Order finds that a cable operator is not required under the Act to provide subscribers with a set-top box capable of processing digital television signals for display on analog sets.

#### Channel Location

\* The Report and Order finds that there is no need to implement channel positioning requirements for digital television signals like those that exist for analog signals.

\* The Report and Order finds that channel mapping protocols contained in the PSIP datastream adequately address a television station's channel positioning concerns.

#### Market Modifications

\* The Report and Order finds that Nielsen's market designations and assignments are applicable to analog and digital television stations.

\* The statutory market modification factors, the current process for requesting market modifications, and the evidence needed to support such petitions, apply to both analog and digital television stations during the transition period.

#### Digital Signal Carriage on PEG Channels

\* The Report and Order finds that the carriage of NCE and LPTV digital signals on unused public, educational, and governmental access channels, with the permission of the local franchising authority, is consistent with the Act.

#### Complaints and Enforcement

\* The Report and Order finds that the current procedures for filing must carry complaints should be used for digital carriage complaints.

#### Subscriber Notification

\* The Report and Order finds that a cable operator must notify its subscribers whenever a digital television signal is added to the cable system channel line-up.

#### Program Exclusivity

\* The Report and Order finds that there is an inadequate record in this proceeding to institute a change or repeal of the network non-duplication, syndicated exclusivity, and sports blackout rules.

#### Tiers and Rates

\* The Report and Order finds that digital television signals must be available to subscribers on a basic service tier. The Further Notice seeks comment on voluntary carriage of digital signals on a tier other than the basic tier.

\* The Report and Order finds that there may be some cable systems undertaking significant system upgrades, a part of which will include a digital build-out. For these systems, the Report and Order finds that a Form 1235 upgrade rate adjustment would provide an appropriate incentive for a cable operator to upgrade its system and carry digital television signals.

Found below is a summary of the matters raised for comment in the FNPRM.

\* The FNPRM seeks comment on the necessity of a dual carriage requirement to hasten the digital transition and the return of the analog spectrum.

\* The FNPRM seeks digital programming information from broadcasters so that the Commission can determine the appropriate substantial duplication definition to apply during the transition period.

\* To satisfy constitutional concerns about the lack of an adequate record, the FNPRM seeks updated channel capacity information from cable operators. It also seeks comment on current technologies that conserve or recapture cable channel capacity.

\* The FNPRM seeks comment on the status and scope of digital retransmission consent agreements.

\* In conjunction with the requirement that cable operators carry material that is associated with the primary video stream, the FNPRM seeks further comment on the proper scope of the program related carriage requirement.

\* The FNPRM seeks comment on proposals allowing cable operators to increase basic service tier rates for each 6 MHz of capacity devoted to the carriage of digital television signals.

\* The FNPRM seeks comment on the application of the digital cable carriage rules, and digital program exclusivity policies, to satellite carriers who provide local-into-local television service under the SHVIA.