



To All Television Clients

May 14, 2007

FCC SEEKS COMMENTS ON POST-DIGITAL TRANSITION OBLIGATIONS OF CABLE OPERATORS

**COMMENTS DUE JULY 16, 2007
REPLY COMMENTS DUE AUGUST 16, 2007**

The FCC has requested comments on several issues concerning the carriage of commercial and noncommercial digital television (DTV) signals by cable operators after the conclusion of the DTV transition (set by Congress to occur on February 17, 2009).

The FCC is seeking comments on two proposals designed to ensure that cable subscribers with analog television sets will be able to view must carry stations after the DTV transition is complete. Currently, only digital-only television stations have mandatory carriage rights for their digital signal, and the FCC permits a digital-only station to demand carriage of one of its high-definition television (HDTV) or standard definition television (SDTV) signals on cable systems for delivery to subscribers in an analog format (known as “down-conversion”).

In order to ensure that all cable subscribers, including those with analog television sets, continue to be able to view local broadcast stations carried pursuant to mandatory carriage, the FCC has proposed that cable operators must, after the DTV transition period concludes, either (1) carry the signals of commercial and non-commercial must-carry stations in analog format to all analog cable subscribers, or (2) for all-digital cable systems, carry those signals only in digital format, provided that all subscribers with analog television sets are provided the necessary equipment to view the broadcast content. The FCC also seeks comment on whether cable operators should be responsible for the expense associated with the “down-conversion” after February 17, 2009.

The FCC is also seeking comments on the “material degradation” requirements applicable to cable operators. Cable operators are required to carry local broadcast signals “without material degradation,” and the FCC has previously determined that a broadcast signal delivered to a cable operator’s headend in high definition (HD) must be carried by the cable operator in HD in order to comply with the prohibition on material degradation. The FCC has proposed to change how it measures material degradation from the current subjective standard (based on the picture quality the consumer receives and is capable of perceiving) to an objective standard (based on the number of content bits transmitted by the broadcaster).

Specifically, the FCC seeks comment on whether it should require that all primary video and program-related content bits transmitted by the broadcaster be carried in order to avoid material degradation. It also seeks comment on how to verify that cable operators are abiding by this requirement; how cable operators are to distinguish between bits with program content and bits without program content (so-called “null bits”); whether material degradation could result from the failure to carry null bits; and how a cable operator that wants to reduce the number of bits carried can demonstrate to broadcasters that such a reduction will not result in material degradation.



If you would like to file comments in this proceeding, or if you have any questions concerning mandatory carriage of analog or digital signals, please contact any attorney in our office.

Leventhal Senter & Lerman PLLC

This memorandum is intended only as a general discussion of these issues and should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired. To discuss any of the issues presented here, please contact any attorney in our office.