

## **Digital Must Carry Is Not In The Public Interest**

### **Digital Must Carry**

If television broadcasters had their way, cable operators would be required to carry both the analog and digital signals of every broadcast station until the broadcasters return their analog spectrum to the federal government (dual must carry). Once they are transmitting only digital signals, many broadcasters want cable operators to carry all of the multicast standard definition channels that broadcasters air in the six megahertz of spectrum originally allocated for high definition TV (multicast must carry).

### **The FCC Has Already Decided The Digital Must Carry Issue – Twice**

The Federal Communications Commission (FCC) has voted twice – in 2001 and 2005 – to reject the broadcasters’ efforts to expand the scope of the must carry law (as contained in the Cable Act of 1992). Specifically, the FCC has denied the broadcasters’ contention that it was Congress’ intent to require “dual must carry” during the transition to digital television and “multicast” or “multiple must carry” afterwards.

### **The FCC Rejected Dual Must Carry As Unconstitutional**

Under the broadcasters’ dual must carry proposal, cable operators would be required to carry both the analog and digital signals of every broadcast station until the broadcasters return their analog spectrum to the federal government.

The FCC first rejected this argument on January 18, 2001, when it tentatively concluded that “dual must carry” would be unconstitutional.

The FCC reaffirmed its finding on February 10, 2005, in a 5-0 vote that dual must carry would be unconstitutional and is not required by the must carry statute.

- “The Commission found that mandatory dual carriage is not necessary either to advance the governmental interests as identified by Congress and the Supreme Court, or to achieve the digital television transition.” (FCC Press Release, 2-10-2005, *FCC Resolves Dual and Multicast Carriage Issues*, paragraphs 2 and 3).

## **The FCC Decided That Broadcasters Are Entitled To Must Carry of Only One Digital Channel – Its Primary Video Stream –Following The Digital Transition**

Once the broadcasters are transmitting only digital signals, they want cable operators to carry ALL of the multicast standard definition channels (multiple must carry) that they provide over-the-air in the 6 MHz of spectrum originally allocated for high definition TV.

On January 18, 2001, the FCC acknowledged that after a broadcaster returns its analog channel and transmits only in digital, that digital station will have must carry rights.

At the same time, the FCC decided that the Cable Act limits must carry rights to the broadcaster's "primary video" signal – which means a single programming stream, along with any material related to that programming. The FCC rejected the broadcasters' argument that cable operators should be required to carry multiple channels of standard definition television or other material that the broadcaster squeezed into the six megahertz allocated for digital television.

On February 10, 2005, the FCC voted 4-1 to deny the broadcasters multicast/multiple must carry rights. The Commission "affirmed its earlier conclusion and declined to require cable operators to carry any more than one programming stream of a digital television station." (FCC Press Release, Feb 10, 2005: *FCC Resolves Dual and Multicast Carriage Issues*, paragraphs 2 and 3).

**NCTA believes the FCC's decisions are correct. Forcing cable to carry multiple streams of duplicative broadcast programming is not in the public interest and will not speed the transition to digital television.**