



STAMP & RETURN

Lowell W. Paxson / Chairman

November 20, 2003

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
The Portals  
445 12th Street, S.W.  
8th Floor  
Washington, D.C. 20554

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Federal Communication Commission  
Bureau / Office

**Re: Full Digital Multicast Must Carry**  
**CS Docket No. 98-120**

Dear Chairman Powell:

During a recent review of the January 2001 decision of the FCC on digital must carry, I was struck by the tenuousness of the FCC's split decision that "primary video" refers to one programming stream and that this phrase was the controlling element of the FCC's decision limiting the scope of broadcasters' digital must carry rights. I know that you are carefully reviewing the record that has been compiled by the FCC in the nearly three years since the release of the January, 2001 decision. I would, in particular, like to direct your attention to the following points:

- Your Separate Statement that the 1992 Cable Act "clearly did not contemplate must carry in a digital world" is not accurate. As the FCC itself noted, Section 614(b)(4)(b) of the 1992 Act requires the FCC to ensure continued cable carriage of digital broadcast signals and the House Report interpreting this section made it clear that "the Commission is instructed to initiate a proceeding to establish technical standards for cable carriage of such broadcast signals which had been changed to conform to such modified signals." The 1992 Cable Act did, in fact, contemplate digital must carry but limited the FCC's role to



establishing whatever "technical standards" were necessary in the digital world for must carry purposes. Furthermore, Section 614(b)(3)(B) of the 1992 Cable Act requires that "the cable operator shall carry the entirety of the program schedule of any television station carried on the cable system" and this remains unchanged in the digital world.

- The focus on the phrase "primary video" has proven to be an unfortunate distraction when considering digital must carry **since that phrase only appears in the section of the 1992 Cable Act discussing analog must carry.** In the digital section of the 1992 Cable Act, it talks about cable carriage of the broadcast signals of digital television stations. In any event, the FCC's January, 2001 decision recognized that the phrase was susceptible to different interpretations and that the legislative history of the 1992 Cable Act did not definitively resolve any ambiguity regarding the proper interpretation of the phrase "primary video."
- Finally, the FCC's January, 2001 decision was "based on the record currently before [it]" and that record has now changed dramatically in the ensuing three years. The compelling need for full digital multicast must carry has now been thoroughly documented and the FCC's authority, not to mention its obligation, to review and revise its January 2001 decision is clear.

Finally, I want to urge you once again to keep the FCC on track to resolve this matter in December.

Very truly yours,

Lowell W. Paxson  
Chairman and CEO  
Paxson Communications Corporation