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## FCC Issues Declaratory Order Regarding October 1 Cable Carriage Elections

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*The FCC released a Declaratory Order on Friday, September 26, 2008, making it clear that the television station cable carriage elections that must be made by **October 1, 2008** will determine a station's carriage rights throughout the entire 2009-2011 carriage election cycle.*

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The Order makes two key points with respect to the cable carriage of full-power television stations over that election cycle. The first is that wherever a station transitions to digital-only operations, it will step into the shoes of the current analog facility, and the October 1, 2008 election will apply for digital operations as well. For stations that will be converting to digital-only on the February 17, 2009 transition date, cable operators will be required to commence carriage of the station's digital signal without any gap in carriage. Television stations that plan to commence digital-only operations after January 1, 2009, but before February 17, 2009, must notify cable operators 30 days in advance of the cessation of their analog signals to ensure that there is no gap in carriage. (While not mentioned in today's Order, with respect to satellite providers, stations are reminded that, if they will cease operations after January 1, 2009, but before February 17, 2009, they must notify the satellite operator by October 1, 2008 of their intention to do so.)

The second key point made in the Order is that must-carry stations may elect their existing analog channel number as their cable channel position going forward after February 17, 2009, even if they plan to move to a different over-the-air digital channel for their post-transition DTV operations. In other words, a must carry station may require cable carriage on its "major channel number" as identified in its program and system information protocol ("PSIP"), which typically corresponds to its over-the-air analog channel number. Of course, stations remain free to negotiate for another mutually agreeable channel number. Stations should specify in their October 1, 2008 election letters the channel number on which they wish to be carried.

Finally, the Commission clarified that, for those few low-power stations that have the right to demand carriage by cable operators, their statutory carriage rights also extend to digital operations.

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