



# NEWS

**Federal Communications Commission**  
**445 12<sup>th</sup> Street, S.W.**  
**Washington, D. C. 20554**

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Circ 1974).

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News media Information 202 / 418-0500  
TTY 202 / 418-25  
Fax-On-Demand 202 / 418-2830  
Internet: <http://www.fcc.gov>  
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**For Immediate Release**  
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**News Media Contact:**  
**Audrey Spivack 202-418-0512**

## **FCC CLARIFIES RULES FOR NONCOMMERCIAL TELEVISION STATIONS' USE OF DIGITAL TELEVISION CHANNEL CAPACITY**

Washington, D.C. – The FCC ruled today that Noncommercial Educational (NCE) Television licensees are required to use their entire digital television (DTV) bitstream capacity primarily for nonprofit, noncommercial, educational broadcast services.

In a Report and Order issued today, the FCC also ruled that the statutory prohibition against broadcasting of advertising on (NCE) television stations applies only to broadcast programming streams provided by NCE licensees, but does not apply to any ancillary or supplementary services presented on their excess DTV channels that do not constitute broadcasting. The Commission further ruled that NCE licensees must pay a fee of five percent of gross revenues generated by ancillary or supplementary services provided on their DTV service.

The Commission said it would not establish a bright line test to define the term “primarily” but will instead define it as a “substantial majority” of a NCE station’s entire digital capacity, measured on a weekly basis. It said the use of a weekly period would provide NCE stations with sufficient flexibility because stations typically schedule their programming on a weekly basis.

Examples of the kinds of services that may be offered as ancillary or supplementary in the digital TV signal include, but are not limited to, computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, audio signals, and subscription video. The Commission said that allowing NCE stations to offer subscription services on their excess digital capacity served the goal of providing NCE licensees with flexibility in the use of their digital spectrum.

The Commission said that allowing advertising on NCE licensees’ ancillary or supplementary services that are non-broadcasting would permit NCE stations flexibility in providing such services as well as enhance their ability to raise revenue for their support and the transition to digital television.

The Commission said that at the same time, observing the ban on advertising on any free-over-the air service will preserve NCE licensees’ fundamental mission of providing a nonprofit, noncommercial, educational broadcast service.

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The FCC concluded that NCE licensees are not exempt from the statutory requirement to pay fees on revenues generated by the remunerative use of their excess digital capacity, even when those revenues are used to support their mission related activities. Beginning in 2002, NCE licensees will be required to report to the FCC on December 1<sup>st</sup> each year on their use of their digital bitstreams during the twelve month period ending the previous September 30th, and remit fees of five percent of their gross revenues received during the reporting period for feeable ancillary or supplementary services provided on their digital bitstreams.

Action by the Commission October 11, 2001, by Report and Order (FCC 01-306.)  
Chairman Powell, Commissioners Abernathy and Martin, with Commissioner Copps dissenting;  
and Chairman Powell and Commissioner Copps issuing separate statements.

MM Docket No. 98-203

Mass Media Bureau contact: Jane Gross 202-418-2130

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