

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
NFL Enterprises LLC,)	MB Docket No. 08-214
Complainant)	File No. CSR-7876-P
v.)	
Comcast Cable Communications, LLC,)	
Defendant)	

MEMORANDUM OPINION AND ORDER

Adopted: December 31, 2008

Released: December 31, 2008

By the Chief, Media Bureau:

1. On October 10, 2008, the Media Bureau issued a *Memorandum Opinion and Hearing Designation Order* (“HDO”) in the above-captioned matter.¹ The HDO, among other things, referred certain program carriage disputes, including the above-captioned matter, to an Administrative Law Judge (“ALJ”) to resolve factual disputes as to whether the defendant cable operators had discriminated against the complainant video programmers or required a financial interest in the complainant video programmer’s programming as a condition for carriage in violation of the Commission’s program carriage rules.² The HDO ordered the ALJ to make and return a recommended decision to the Commission within 60 days of the release date of the HDO, *i.e.*, by December 9, 2008. Unfortunately, the ALJ has not issued a recommended decision by the deadline but, instead, has set a date to begin a hearing more than three months past the HDO’s deadline without indicating when a recommended decision will be released.³

2. On December 24, 2008, the Media Bureau issued a *Memorandum Opinion and Order* (the “*Dec. 24th MO&O*”) finding that the ALJ exceeded his authority by setting a hearing date beyond the HDO’s 60-day deadline for issuing a recommended decision.⁴ In the *Dec. 24th MO&O*, the Media Bureau stated that the ALJ’s limited authority to consider these matters extended through December 9, 2008.⁵ The Media Bureau noted that this deadline has passed, and the ALJ’s delegated authority over these hearing matters has thus expired under the terms of the HDO.⁶ While the above-captioned matter was not included in the caption of the *Dec. 24th MO&O*, NFL Enterprises, LLC has filed a Motion for Clarification arguing that the logic and reasoning of that decision applies equally to the above-captioned matter.⁷ We agree and therefore the Media

¹ *In the Matter of Herring Broadcasting Inc., d/b/a WealthTV, et al.*, Memorandum Opinion and Hearing Designation Order, DA 08-2269, MB Docket 08-214 (rel. Oct. 10, 2008) (“HDO”), *as modified by Erratum* (rel. Oct. 15, 2008).

² HDO, at ¶¶ 85, 89.

³ *Herring Broadcasting, Inc. v. Time Warner Cable Inc. et al.*, Order, MB Docket No. 08-214, FCC 08M-50 (rel. Dec. 2, 2008).

⁴ *In the Matter of Herring Broadcasting Inc., d/b/a WealthTV, et al.*, Memorandum Opinion and Order, DA 08-2805, MB Docket 08-214 (rel. Dec. 24, 2008), at ¶¶ 2, 14-16 (“*Dec. 24th MO&O*”).

⁵ *See id.*

⁶ *See id.*

⁷ NFL Enterprises LLC, Motion for Clarification, MB Docket No. 08-214, File No. CSR-7876-P (filed Dec. 29, 2008).

Bureau will proceed to resolve the above-captioned program carriage dispute without the benefit of a recommended decision from the ALJ.

3. Accordingly, **IT IS ORDERED**, that the Hearing Designation Order for the above-captioned matter has **EXPIRED**, the proceeding set for hearing before the Administrative Law Judge is **TERMINATED**, and the Media Bureau will proceed to resolve the above-captioned program carriage dispute.

4. **IT IS FURTHER ORDERED** that all parties to the above-captioned proceeding will be served with a copy of this Memorandum Opinion and Order by e-mail and by certified mail, return receipt requested.

5. **IT IS FURTHER ORDERED** that a copy of this Memorandum Opinion and Order or a summary thereof **SHALL BE PUBLISHED** in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Monica Shah Desai
Chief, Media Bureau