



PUBLIC NOTICE

Federal Communications Commission
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RELEASE OF 2009 CABLE PRICE SURVEY DATA AND 2003 TO 2009 CABLE TELEVISION SYSTEM REPORT DATA TO THE U.S. GOVERNMENT ACCOUNTABILITY OFFICE

The U. S. Government Accountability Office (GAO), pursuant to a requirement in the Satellite Television Extension and Localism Act of 2010, is conducting a review of statutory licenses for the retransmission of broadcast programming.¹ For purposes of that study, GAO has requested access to the 2009 cable price data that the Federal Communications Commission has collected pursuant to Section 623(k) of the Communications Act, 47 U.S.C. § 623(k). That section of the Act requires the Commission to publish statistical reports on cable rates. In preparation for these reports the Commission conducts annual surveys of cable operators. The data that are collected from the cable operators are considered part of the public record but the Commission has stipulated that it will not release any identifying information (*i.e.*, the identity of the cable operators who have submitted particular data) to the public.

GAO also requested access to the 2003-2009 cable television system report (FCC Form 325) data that the FCC collected pursuant to 47 C.F.R. § 76.403. That part solicits general information and frequency and signal distribution information on a Physical System Identification Number (“PSID”) basis. The data that are collected from the cable operators are considered part of the public record with the exceptions detailed in 21 FCC Rcd 2309 (2006) and 21 FCC Rcd 2312 (2006).

GAO’s request for the survey data is made pursuant to 31 U.S.C. § 716, under which federal agencies must provide GAO with access to records held by such agencies. GAO notes in its request that it is required by that section to maintain the same level of confidentiality for records provided as is required of the head of the agency from which they are obtained, and that GAO is precluded by 18 U.S.C. § 1905 from disclosing proprietary or confidential business information to any extent not authorized by law. While the statutory proscription does not preclude disclosure to Congress, *see* 31 U.S.C. § 716(e)(3), or in response to a court order, GAO states that its policy is to protect such information in a manner consistent with its reporting responsibilities. In the event that transmittal of this information becomes necessary, GAO states that it will notify the FCC of the request and provide us with the opportunity to express any concerns we may have to the requestor or the court prior to disclosure, except where the requestor or court directs otherwise. In addition, GAO states that it will notify the recipient of the records of the sensitivity of the material, where appropriate. Finally, GAO states that it does not disclose records in its files to the public that originate in another agency and that it will refer any such requests to the originating agency.

¹ Pub. L. No. 111-175, § 303, 124 Stat. 1218, 1255 (2010).

Commission regulations provide that proprietary and commercially sensitive information will be withheld from public disclosure, subject to the public's right to seek disclosure under the Freedom of Information Act, 5 U.S.C. § 552. 47 C.F.R. § 0.457(d), 0.459(d). Consistent with our regulations and the cable operators' expectations that identification of the sources of particular data will be protected, we have requested that GAO not disclose the sources of particular data collected by the Commission in the cable price survey or the cable television system report.

Our regulations permit disclosure of records submitted to the Commission in confidence to the Comptroller General (*i.e.*, GAO) without prior notification and provide that parties shall be notified of the disclosure of those records to GAO. 47 C.F.R. § 0.442(d)(3). Accordingly, this notice is being provided so as to inform cable operators who have submitted data in response to the 2009 cable price survey or the 2003 to 2009 cable television system report.

If you have any questions, please contact John Scott in the Media Bureau at 202-418-2330 or John.Scott@fcc.gov for cable price survey questions and John Kiefer in the Media Bureau at 202-418-2934 or John.Kiefer@fcc.gov for cable television system report questions. Press inquiries should be directed to Janice Wise at 202-418-8165 or Janice.Wise@fcc.gov.

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