

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

In the Matter of)
)
Implementation of Section 3 of the Cable)
Television Consumer Protection and Competition) MM Docket No. 92-266
Act of 1992)
)
Statistical Report on Average Rates for Basic)
Service, Cable Programming Service, and)
Equipment)

ORDER

Adopted: March 23, 2020

Released: March 23, 2020

Responses Due: May 15, 2020

By the Chief, Office of Economics and Analytics, and the Chief, Media Bureau:

I. INTRODUCTION

1. This Order initiates the Commission’s survey soliciting industry input necessary for the
statutorily required report on cable industry prices. The Consolidated Appropriations Act of 2018
included the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018 (RAY
BAUM’S Act of 2018),¹ which amended Section 13 of the Communications Act of 1934 to require the
Federal Communications Commission (Commission) to publish a single, biennial “Communications
Marketplace Report,” in lieu of several individual reports separately assessing competition among
providers of various communications services, including voice, video, audio, and data services.² Among
the previous reports now included in the Communications Marketplace Report, to be published in the last
quarter of every even numbered year, is information that was previously submitted to Congress as an
annual report on cable industry prices.³ That report was previously required annually pursuant to section
623(k) of the Communications Act, prior to amendment by RAY BAUM’S Act of 2018.⁴ The prior
report provided statistical data on the average rates for basic cable service, cable programming service,
and equipment, as well as a comparison of the average rates of cable systems that the Commission has
found are subject to effective competition with those of systems that the Commission has found are not
subject to effective competition.⁵ In addition, section 110 of the STELA Reauthorization Act of 2014

¹ Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, Div. P—RAY BAUM’S Act of 2018, §§ 401-404,
132 Stat. 348, 1087-90 (2018) (RAY BAUM’S Act of 2018).

² Div. P—RAY BAUM’S Act of 2018, Title IV: FCC Consolidated Reporting, Section 13.

³ We note here that due to the change from an annual report to occupying part of a biennial report, we will move
from annual collection of data to biennial collection.

⁴ Initially, section 623(k) was adopted as Section 3(k) of the 1992 Cable Act, Pub. L. No. 102-385, 106 Stat. 1460,
codified at 47 U.S.C. § 543(k).

⁵ 47 U.S.C. § 543(k). The 1992 Cable Act defines basic cable service as that tier of service that includes the
retransmission of local television broadcast signals. See 47 U.S.C. § 543(b)(7). Cable programming service is
defined as “any video programming provided over a cable system, regardless of service tier, including installation or
(continued....)

requires the Commission to report on retransmission consent fees paid by cable operators to broadcast stations or groups.⁶ To implement the requirements of RAY BAUM'S Act of 2018 and address the Commission's continuing obligation to report on cable television rates and related data, the Commission is directing certain cable operators to respond to a price survey questionnaire designed to solicit information concerning rates for basic service, cable programming service, and equipment used to receive such services. The Notice to individuals required by the Privacy Act and the Paperwork Reduction Act is attached to this Order as Appendix A and instructions for completing the questionnaire are attached as Appendix B. The cable operators selected for our sample must complete and file the questionnaire no later than **May 15, 2020**.

2. The survey requests information on the monthly price of basic service, expanded basic service, and the next most popular service as of two dates: January 1, 2019, and January 1, 2020. In addition, the survey requests information on the monthly charge for equipment, the number of subscribers, and the number and types of channels offered.⁷ We note that we have lowered the burden on respondents by removing the requirement to fill out a full channel lineup due to changing requirements for the survey. In addition, we have updated our sampling methodology to reduce the number of communities surveyed.

3. Our survey sample includes a random sample of cable operators in various communities nationwide. A completed questionnaire is required for each community selected in our sample. If more than one community is selected from any cable system, the cable operator must complete a separate questionnaire for each community unit identification (CUID) number selected.

4. Data submitted in response to this survey will be made available to the public in aggregate form as averages representing segments of the industry. Survey data also may be subject to requests for public release filed pursuant to the Freedom of Information Act (FOIA). Nothing in this

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rental of equipment used for the receipt of such video programming, other than (A) video programming carried on the basic service tier, and (B) video programming offered on a per channel or per program basis." 47 U.S.C. § 543(l) (2). Equipment refers to a converter box, remote control, and other equipment necessary to access programming. See 47 U.S.C. § 543(b)(3). Historically, effective competition existed where the Commission made a finding that a multi-channel video programming distributor ("MVPD") met one of four tests within its franchise area: (1) fewer than 30% of households subscribed to the service of the cable system (the "low penetration test"); (2) at least two MVPDs served 50% or more of households and at least 15% of those households took service other than from the largest MVPD (the "competing provider test"); (3) a municipal MVPD offered service to at least 50% of households (the "municipal test"); and (4) a local exchange carrier ("LEC") or its affiliate (or any MVPD using the facilities of the LEC or its affiliate) offered video programming service (other than direct broadcast satellite service) comparable to the service of an unaffiliated MVPD (the "LEC test"). See 47 U.S.C. § 543(k)(1)(A-D). In 2015, however, the Commission modified its effective competition process and adopted a rebuttable presumption that cable operators are subject to "competing provider" effective competition, as described above. This change was justified by the ubiquitous nature of two unaffiliated Direct Broadcast Satellite (DBS) services, with DBS providers capturing almost 34 percent of the MVPD subscribers. The Commission concluded that it was thus appropriate to presume that the competing provider test is met, unless a franchise authority demonstrates that the presumption is not valid in a franchise area. See *Amendment to the Commission's Rules Concerning Effective Competition, Implementation of Section 111 of the STELA Reauthorization Act*, Report and Order, 30 FCC Rcd 6574 (2015). The current survey sample accounts for this change in presumption of effective competition.

⁶ Section 110 of the STELA Reauthorization Act of 2014 (STELAR). See Pub. L. No. 113-200, 128 Stat. 2059 (2014) enacted December 4, 2014 (H.R. 5728, 113th Cong.). Specifically, STELAR instructs the Commission to include in its now-biennial report on cable industry prices "the aggregate average total amount paid by cable systems in compensation under section 325 [of the Communications Act of 1934, as amended,]" and to report such information "in a manner substantially similar to the way other comparable information is published" in the report. 47 U.S.C. § 543(k)(2), as amended. Because these data are collected for entire year periods, they are collected for the years ending in 2018 and 2019.

Order shall be construed as a resolution on the merits of a FOIA request. If individual respondents wish to request confidential treatment of any data provided in connection with this survey, in accordance with Sections 0.457 and 0.459 of the Commission's rules,⁸ they should request such confidentiality in writing and identify clearly the specific information they wish to protect. They also should provide, as required by the rules, a complete explanation of why such treatment is appropriate. A copy of the written request for confidentiality should be sent to the cable price survey team in an e-mail addressed to cablesurvey@fcc.gov. If a respondent does not submit a request for confidentiality, the Commission may release the respondent's data, including identifying information.

5. Accordingly, IT IS ORDERED pursuant to Section 623(k) of the Communications Act of 1934, as amended, 47 U.S.C. § 543(k), and Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), that cable operators subject to the price survey requirement described herein shall complete and file the price survey questionnaire no later than **May 15, 2020**.

FEDERAL COMMUNICATIONS COMMISSION

Giulia McHenry
Chief
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Michelle M. Carey
Chief
Media Bureau

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⁷ For further information, see the notice contained in Appendix A of this Order regarding the Privacy Act and Paperwork Reduction Act.

⁸ 47 C.F.R. §§ 0.457, 0.459.

APPENDIX A

2020 Cable Industry Price Survey

**FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND
THE PAPERWORK REDUCTION ACT**

The solicitation of information in this survey form is authorized by Section 623(k) of the Communications Act, as amended. The Commission will use the information collected on this form to compare prices charged for basic cable service, cable programming service, and equipment by cable operators that are found to be subject to effective competition with those not subject to effective competition. The survey also to report information about the aggregate average total amount paid by cable systems in compensation to television broadcast stations under Section 325 of the Communications Act. This form has been approved by the Office of Management and Budget, under OMB control number 3060-0647 (expiration date: May 31, 2021).

The public reporting burden for this information collection is estimated to average less than 7.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and entering the data needed, and completing and reviewing the questionnaire. Suggestions for reducing the burden may be sent to the Commission in an e-mail addressed to cablesurvey@fcc.gov with “Suggestions for Reducing Burden” in the “subject” line. Alternatively, send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Records Management Division, Federal Communications Commission, Washington, DC 20554.

The above notice is required by the Privacy Act of 1974, Pub. L. No. 93-579, 88 Stat. 1897, codified at 5 U.S.C. § 552a(e)(3), and the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat. 163, codified at 44 U.S.C. § 3507.

APPENDIX B

Cable Industry Price Survey

INSTRUCTIONS FOR ACCESSING, COMPLETING, AND SUBMITTING THE WEB-BASED SURVEY
FCC Form 333

Features of the Web-Based Survey: Some of the features of the web-based survey that you should be aware of before entering data are summarized below. More complete instructions pertaining to each of these features are provided under the relevant headings in the following sections.

- **After You Login:** The Main Menu allows you to create a new cable price survey, edit an existing saved survey, submit a completed survey, or revise a survey that you have already submitted.
- **Copying Data from one Survey to Another:** The application allows you to copy data from one survey to another. If you use this feature, please review the copied data carefully to ensure that any entries that should be different from the survey you copied are corrected.
- **Entering Data:** Many fields have internal checks, or “error messages”, associated with them. If you receive an error message, please check to ensure that the data you have entered are correct. Also, please note that the web-based application can accept only numeric values in fields where numeric answers are expected. Text and special characters such as dollar signs, percent signs, commas, and letters (such as N/A) may not be used when answering questions where numeric values are required.
- **Print View Function:** The application provides a “print view” version of your survey. This feature allows you to review your entire survey at one time. (The normal view goes through the survey one section at a time.) The web application does not prevent the submission of incomplete surveys, so we strongly recommend that you review all the entries you plan to submit before you submit a completed survey by using this print view mode. This mode also allows you to print a hard copy or save a copy of your submission in your computer, for your records.
- **Submitting a Completed Survey to the Commission:** The web-based application requires that you complete and file your survey directly on the Commission’s Internet site. Once you have entered, and reviewed, all data for a particular submission, you must officially “submit” that completed survey to the Commission to complete that filing.
- **Reopening a Submitted Survey to Make Changes:** Even after you have submitted a survey as complete, you can reopen that survey to make changes until the cutoff date for filing completed surveys. If it becomes necessary to reopen a survey after that date, please contact the cable price survey team at cablesurvey@fcc.gov or (202) 418-0940.

Login Instructions: In order to access the Cable Price Survey (FCC Form 333), you will need Internet access and an FCC Registration Number (FRN) with an associated password. If you already have an FRN and password, you can access FCC Form 333 through the Commission’s Internet site <https://www.fcc.gov/economics-analytics/industry-analysis-division/cable-price-survey>. If you do not have an FRN, you will need to visit the FCC's Registration page. You can access the FRN Registration page through the Commission’s Internet site identified above or at <https://fjallfoss.fcc.gov/coresWeb/publicHome.do>. Be sure to select a password when registering. We recommend printing the confirmation page to retain a copy of both your FRN and your password. The confirmation page also contains your personal security question and answer, which you may need if you forget your password.

If you have an FRN but have forgotten your password, and you have previously provided us with a personal security question and answer, you may use the [online password reset](#) feature to create a new

password for your FRN. If you have forgotten your password and have not previously provided a personal security question and answer, you can request a password reset through the [Registration Update](#) page. If you need immediate assistance regarding an FRN or password, please call FCC Technical Support at 1-877-480-3201 (please select Option #1 from the menu), and assistance with password resets will be provided.

After You Login: The Main Menu will allow you to create a new “Cable Price Survey Submission.” Your FRN and company name will be in the header at the top of the screen. To create a new Cable Price Survey Submission, select your state from the drop-down list, then select the CUID for which you are completing a survey. It is critical that you select the correct CUID, so please make this selection carefully.

The next step is to click the “Create New” button in the “Create New Cable Price Survey Submission” section. Once you have clicked “Create New,” the first data screen of the survey will be displayed (it is entitled, “Section A. Community”). The answers for questions A2, “Name of the community associated with this CUID,” and A3, “Name of the county in which the community is situated,” will be filled in automatically by the application. Please check that they are entered correctly. If they are incorrect, ensure that you have selected the proper CUID. If the CUID is correct, you may edit the pre-filled information as necessary.

To complete the survey, click on each section, one at a time, and enter the appropriate information for each question. After entering data for each section, click on the section heading again on the Main Menu to ensure that all values you have entered have been saved. Note that when you have completed a survey, all sections will display the status: “Data Entered.”

If You Are Completing Surveys for More Than One CUID: On the Main Menu, create a new submission for your next CUID. Note that if you select the same state as your first CUID, the CUID for which you have already created a response no longer appears in the drop-down list. Click “Create New” to create a new CUID response. Section A will be displayed as it was with your first CUID. Once you have checked your information for Section A, click “Save and Return to Submission Menu.” Proceed to complete the survey as you did your first survey submission.

Entering Data: Many fields have internal error checks. If you receive an error message, please check that the correct data are entered in the fields that are identified by the checks. In some instances, the check only refers to the current entry, however, in others the check cross-references data from the current field with data found in another field. If you receive an error message for an entry in a field that has a cross-check with another field, the entry in the other field may be in error, rather than the field associated with the current question. These error messages are included in the application to help you identify typos and possible errors. If you have ensured that your response is correct, but you still receive an error message, you may ignore the error message. Having an error message will not prevent you from making an entry.

When entering data into the web-based form, please note that the web application can only store numeric values in fields where numeric answers are expected. Text and special characters such as dollar signs, percent signs, commas, and letters (such as N/A) may not be used when answering questions where numeric values are required. If the data that we are asking for are not applicable or not available (for example the CUID was recently purchased and historical data are not available), then leave the field blank. In some instances, this may create an “error” message at the top of your submission in red.

If you wish to provide us with an explanation for, or elaborate on, any of your answers, or would like to comment on any of the questions, you may do so by sending an e-mail to cablesurvey@fcc.gov with

“Comment on CUID or Question Number (enter the relevant CUID or question number)” in the “Subject” line of your e-mail.

How to Copy Data from One Form to Another: The application provides a feature that allows you to copy data from a previously completed survey. This feature can save you time if your responses are the same for many CUIDs. If you choose to use this feature, be certain to change all fields that require different answers from those in the previously completed CUID. Click the “Cable Price Survey Home” link. This link appears in two places on the Submission Menu, at the top left in the header and at the bottom of the page. This will return you to the Main Menu.

At the Main Menu, create a new submission for another CUID. Click “Create New” to create a new CUID submission. Section A will be displayed. Once you have checked your entries for Section A, click “Save and Return to Submission Menu.” Click the link “Copy Data from Another Survey to this Survey” at the bottom of the Submission Menu. In the “Select a Source CUID for Copy Process” section of the copy page, there is a drop-down list titled “Source CUID.” This will contain all the CUIDs for your FRN that have a record in the system (other than the current CUID; it cannot be copied onto itself). If you have completed only one CUID at this point, the list will contain only one item.

Next, click the link “Copy Selected CUID Data to this Survey.” The application will report “Data Has Been Copied from (source CUID).” Click the link “Return to Cable Price Survey Submission Menu for CUID (current CUID)” to return to the Submission Menu. Note that now all sections are displayed with the status “Data Entered.” Make certain that you change all fields that are different for the selected CUID from the copied CUID. To confirm that the copy and editing was successful, use the “Print View” link described in the following paragraph. Note that the values that are automatically entered from the COALS database are not copied in this function but are re-entered from COALS to reflect the most current data.

Print View Function: Click the link “View the Entire Survey on One Page (Print View)” at the bottom of the Submission Menu. A new page (or tab, depending on your browser) should open with the entire survey in a single “print view” page with no header. You may then send the document to the printer or save it to your desktop as a file. The web application does not prevent the submission of incomplete surveys, so we strongly recommend that you review all the data as displayed in the print view mode. This will help to ensure that there are no unintended blank fields or blank sections.

How to Complete a Survey in Multiple Sessions: You may enter data into the survey over multiple work sessions. The Main Menu screen will generally show the submission’s status as “Original – In Progress” during those sessions. To save data entered in order to complete the survey at a later session, select the “Save and Return to Edit Menu” link prior to logging out of a work session. If you close the browser or leave the application without saving, the data entered for the section that you are currently in will not be saved.

How to Log Out of a Session: To log out of a session before you have completed a survey, after saving your work as indicated above, select the “Log Out” link at the bottom of the screen.

To Return to a Work-in-Progress: To return to an in-progress submission, from the Main Menu, use the “View/Edit” link in the “View/Edit By Part” column to open the Submission Menu.

How to Submit the Survey to the Commission: Responses must be completed and filed directly on the Commission’s website. Once all data for a particular submission have been entered and reviewed, you must officially “submit” the data to the Commission to complete that filing. To do this, use either (a) the Submit link in the Revise/Submit column in the Main Menu or (b) the “Submit this Submission as Complete” link that appears at the bottom of the Submission Menu. Either link will take you to the

“Change Status of Current Form” submission screen where you must click the option button and then select “Change Status.”

Once the system accepts a submission, that submission will be locked and you will not be able to edit it unless you reopen it for revision. The application allows revisions to be made to completed and/or submitted surveys, so you may re-enter and revise your submission for a particular CUID at any point in the process (up to the filing deadline), even after you have submitted it as a completed survey. You can re-enter your survey by using the “Revise” link in the Main Menu or the “Revise this Submission” link at the bottom of the Submission Menu.

How to Reopen a Completed Survey to Make Edits: The web-based filing system will allow you to reopen a submitted survey to make changes until the filing deadline. If you wish to amend a submitted survey after the filing deadline, please contact the cable price survey team at cablesurvey@fcc.gov or (202) 418-0940. To reopen a completed survey, click the link “Return to Cable Price Survey Submission Menu for CUID (enter the CUID to which you wish to return).” Note that the status will be described as “Submitted.” Click the link for the section or sections that you wish to edit. Note that the data fields will be displayed but cannot be modified. To unlock these data fields, click the link “Revise this Survey,” which you can find at the bottom of the menu. Click the button “Re-open this Survey for Revision” in the “Change Status of Survey Submission” section. The new status will be noted, and you can make edits. You should then re-submit the edited survey as complete using the “Submit this Survey as Complete” link. When the note “This Survey Has Been Submitted as Complete” is displayed, click the link “Cable Price Survey Home” to return to the Main Menu.