

Federal Communications Commission

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

In the Matter of:)	
)	
Carriage of Digital Television Broadcast))	CS Docket No. 98-120
Signals)	
)	
Amendments to Part 76)	
of the Commission's Rules)	
)	
Implementation of the Satellite Home)	
Viewer Improvement Act of 1999:)	
)	
Local Broadcast Signal Carriage Issues)	CS Docket No. 00-96
)	
Application of Network Non-Duplication,)	CS Docket No. 00-2
Syndicated Exclusivity and Sports Blackout)	
Rules to Satellite Retransmission of)	
Broadcast Signals)	

ERRATUM

Released: February 20, 2001

By the Deputy Chief, Cable Services Bureau:

1. This erratum corrects an error in the text and in Appendix D of the *Report and Order and Further Notice of Proposed Rulemaking* (FCC 01-22) in this proceeding released on January 23, 2001. The text will be published as corrected in the Federal Register and in the FCC Record.

2. The released text of paragraph 103 is replaced with the following:

103. **Rates.** As noted above, digital broadcast signal carriage also has potential consequences for the cable television rate regulation process. In communities where there has not been a finding of effective competition or where there is local rate enforcement, rates for the basic service tier ("BST") are subject to regulation by local franchise authorities.¹ Regulated cable systems have established initial regulated rates using either the "benchmark" or "cost of service"

¹47 U.S.C. §543(b)(7)(B); see also 47 C.F.R. §76.901 *et seq.* The rates of cable programming service tiers ("CPST") were subject to Commission regulation on a complaint basis, but these regulations sunsetted on March 31, 1999. See 47 U.S.C. §543(c)(4).

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methodologies pursuant to the Commission's rules.² Once initial rates are established, cable operators are permitted to adjust rates for changes in external costs and inflation. Regulated cable operators seeking to adjust their BST rates to reflect these changes must justify rate increases using the applicable forms.³ There are also cost pass-through mechanisms for defined categories of "external" costs, including franchise fees and certain local franchise costs, as well as fees paid for programming, retransmission consent, and copyright.⁴ Compliance costs associated with must carry are not covered by the definition of external costs.⁵

²See 47 C.F.R. §76.922(a). Initial rates recover the costs of the cable network and are adjusted for inflation. A "cost of service" mechanism is also available to cable system operators that believe the benchmark process fails to adequately account for system costs. See 47 C.F.R. §76.922(i).

³FCC Form 1210, Updating Maximum Permitted Rates for Regulated Cable Service (May 1994), FCC Form 1240, Annual Updating for Maximum Permitted Rates For Regulated Cable Service (July 1996); see also 47 C.F.R. §§76.922(d), (e), 47 C.F.R. §76.933, and FCC Form 1235, Abbreviated Cost of Service Filing for Cable Network Upgrades.

⁴47 C.F.R. §§76.922(c)(3), (f).

⁵See 47 C.F.R. §76.922(f).

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3. Appendix D is revised as shown on the attached.

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William H. Johnson
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APPENDIX D - Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends Part 76 of Title 47 of the Code of Federal Regulations as follows: PART 76 -- MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE.

1. The authority citation for Part 76 reads as follows:

AUTHORITY: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 336, 338, 339, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Section 76.5 is revised to read as follows:

§ 76.5 Definitions

* * * * *

(b) Television station; television broadcast station. Any television broadcast station operating on a channel regularly assigned to its community by § 73.606 or § 73.622 of this chapter, and any television broadcast station licensed by a foreign government: Provided, however, That a television broadcast station licensed by a foreign government shall not be entitled to assert a claim to carriage, program exclusivity, or retransmission consent authorization pursuant to subpart D or F of this part, but may otherwise be carried if consistent with the rules on any service tier. Further provided that a television broadcast station operating on channels regularly assigned to its community by both §§ 73.606 and 73.622 of this chapter may assert a claim for carriage pursuant to subpart D of this part only for a channel assigned pursuant to 73.606.

* * * * *

3. Section 76.56 is revised to read as follows:

§76.56 Signal carriage obligations.

* * * * *

(e) Carriage of additional broadcast television signals on such system shall be at the discretion of the cable operator, subject to the retransmission consent rules, § 76.64. A cable system may also carry any ancillary or other transmission contained in the broadcast television signal.

4. Section 76.57 is amended by redesignating paragraphs (c), (d), (e) as paragraphs (d), (e), (f); adding a new paragraph (c); revising the newly redesignated paragraph (e), and the Note that follows paragraph d is designated as “Note to § 76.57” to read as follows:

§76.57 Channel positioning

* * * * *

(c) With respect to digital signals of a television station carried in fulfillment of the must-carry obligations, a cable operator shall carry the information necessary to identify and tune to the broadcast television signal.

* * * * *

(e) At the time a local commercial station elects must-carry status pursuant to § 76.64, such station shall notify the cable system of its choice of channel position as specified in paragraphs (a), (b), and (d) of this section. A qualified NCE stations shall notify the cable system of its choice of channel position when it requests carriage. Channel positioning requests from local commercial stations shall be fulfilled by the cable operator no later than October 6, 1993.

* * * * *

5. Section 76.62 is amended by revising paragraph (b) and adding paragraph (g) to read as follows:

§76.62 Manner of carriage.

* * * * *

(b) Each such television broadcast signal carried shall be carried without material degradation, and, for analog signals, in compliance with technical standards set forth in subpart K of this part.

* * * * *

(g) With respect to carriage of digital signals, operators are not required to carry ancillary or supplementary transmissions or non-program related video material.

6. Section 76.64 is amended by revising paragraphs (f), (f)(4) and (k) to read as follows:

§ 76.64 Retransmission consent.

* * * * *

(f) Commercial television stations are required to make elections between retransmission consent and must-carry status according to the following schedule:

* * * * *

(4) New television stations and stations that return their analog spectrum allocation and broadcast in digital only shall make their initial election any time between 60 days prior to commencing broadcast and 30 days after commencing broadcast or commencing broadcasting in digital only; such initial election shall take effect 90 days after it is made.

* * * * *

(k) Retransmission consent agreements between a broadcast station and a multichannel video programming distributor shall be in writing and shall specify the extent of the consent being granted, whether for the entire signal or any portion of the signal. This rule applies for either the analog or the digital signal of a television station.

* * * * *

7. Section 76.922 is amended by adding paragraph (f)(1)(vii) and revising paragraph (j)(1) to read as follows:

§ 76.922 Rates for the basic service tier and cable programming service tiers

* * * * *

(f) * * *

(vii) Headend equipment costs necessary for the carriage of digital broadcast signals.

* * * * *

(j) Network upgrade rate increase. (1) Cable operators that undertake significant network upgrades requiring added capital investment may justify an increase in rates for regulated services by demonstrating that the capital investment will benefit subscribers, including providing television broadcast programming in a digital format.

* * * * *

8. Section 76.1603 is revised to read as follows:

§76.1603 Customer service -- rate and service changes.

* * * * *

(c) In addition to the requirement of paragraph (b) of this section regarding advance notification to customers of any changes in rates, programming services or channel positions, cable systems shall give 30 days written notice to both subscribers and local franchising authorities before implementing any rate or service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, change in external costs or the addition/deletion of channels). When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified. For purposes of the carriage of digital broadcast signals, the operator need only identify for subscribers, the television signal added and not whether that signal may be multiplexed during certain dayparts.

* * * * *