

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

In the Matter of)	
)	
Review of the Commission's Program Access)	MB Docket No. 07-198
Rules and Examination of Programming Tying)	
Arrangements)	

ERRATUM

Adopted: February 5, 2010

Released: February 16, 2010

By the Commission: Commissioner McDowell dissenting.

1. On January 20, 2010, the Commission released a *First Report and Order* in the above-captioned proceeding in which we established rules for (i) complaints alleging unfair acts involving terrestrially delivered, cable-affiliated programming; and (ii) requests for a temporary standstill of the price, terms, and other conditions of an existing programming contract by a program access complainant seeking renewal of such a contract.¹ In this Erratum, we make three corrections. First, we amend Sections 76.1000(j) and 76.1003(c)(3) to reflect that a defendant to a program access complaint involving terrestrial cable programming will be one of the entities listed in Section 628(b) and not a terrestrial cable programming vendor.² Second, we amend Section 76.1003(g)(3) of the rules, which pertains to the time limits for filing program access complaints, to reflect that complaints may be filed alleging unfair acts involving terrestrial cable programming.³ Third, we correct the rule by adding the temporary standstill provision as Section 76.1003(l), and not 76.1003(i), of the rules. The specific corrections are discussed in the following paragraphs.

2. In paragraph 81 of the *First Report and Order*, we correct the reference to 76.1003(i) to read 76.1003(l), such that this paragraph reads as follows:

“81. **IT IS FURTHER ORDERED** that the rules adopted herein **WILL BECOME EFFECTIVE** 30 days after the date of publication in the *Federal Register*, except for Sections 76.1001(b)(2), 76.1003(c)(3), and 76.1003(l) which contain new or modified information collection requirements that require approval by the Office of Management and Budget (“OMB”) under the Paperwork Reduction Act (PRA) and **WILL BECOME EFFECTIVE** after the Commission publishes a notice in the *Federal Register* announcing such approval and the relevant effective date.”

¹ See *Review of the Commission's Program Access Rules and Examination of Programming Tying Arrangements*, MB Docket No. 07-198, First Report and Order, FCC 10-17 (rel. Jan. 20, 2010) (“*First Report and Order*”).

² See *id.* at ¶ 57.

³ The *First Report and Order* explained that, with the exception of the certain additional burdens and the additional time for defendants to file an Answer, complaints alleging unfair acts involving terrestrially delivered, cable-affiliated programming will be subject to the same procedures set forth in Sections 76.7 and 76.1003 of the rules that apply to complaints involving satellite-delivered, cable-affiliated programming. See *id.* at ¶ 49. While we amended Section 76.1003(g)(1)-(2) to reflect that complaints may be filed with respect to terrestrial cable programming, we neglected to make a similar amendment to Section 76.1003(g)(3). See *id.*, Appendix B at ¶ 5.

3. In the final rule text for amended Section 76.1000, found in Appendix B of the *First Report and Order*:

- We correct the first sentence of paragraph 2 to read: “Section 76.1000 is amended by revising the first sentence of paragraph (b), revising paragraph (c)(1), revising the first sentence of paragraph (j), and adding paragraphs (l) and (m) to read as follows:”
- We add amended paragraph (j) to state as follows:
“(j) Similarly situated. The term “similarly situated” means, for the purposes of evaluating alternative programming contracts offered by a defendant programming vendor or by a terrestrial cable programming vendor alleged to have engaged in conduct described in § 76.1001(b)(1)(ii) of this part, that an alternative multichannel video programming distributor has been identified by the defendant as being more properly compared to the complainant in order to determine whether a violation of § 76.1001(a) or § 76.1002(b) of this part has occurred. * * *

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4. In the final rule text for amended Section 76.1003, found in Appendix B of the *First Report and Order*:

- We correct the first sentence of paragraph 5 to read: “Section 76.1003 is amended by revising paragraph (c)(3), by revising the first sentence of paragraph (e)(1), by revising paragraph (g)(1)-(3), and by adding paragraph (l) to read as follows:”
- We amend paragraph (c)(3) to state as follows:
“(3) Evidence that the complainant competes with the defendant cable operator, or with a multichannel video programming distributor that is a customer of the defendant satellite cable programming or satellite broadcast programming vendor or a terrestrial cable programming vendor alleged to have engaged in conduct described in § 76.1001(b)(1) of this part;”
- We add amended paragraph (g)(3) to state as follows:
“(3) The complainant has notified a cable operator, or a satellite cable programming vendor or a satellite broadcast programming vendor that it intends to file a complaint with the Commission based on a request to purchase or negotiate to purchase satellite cable programming, satellite broadcast programming, or terrestrial cable programming, or has made a request to amend an existing contract pertaining to such programming pursuant to § 76.1002(f) of this part that has been denied or unacknowledged, allegedly in violation of one or more of the rules contained in this subpart.”
- We correct the first sentence of paragraph “(i) *Petitions for temporary standstill.*” to read “(l) *Petitions for temporary standstill.*”

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary