live on any of the following television broadcast stations carried by a cable system or other MVPD:

(a) Television broadcast stations within whose specified zone the community of the community unit or the community within which the sporting event is taking place is located, in whole or in part;

(b) For communities in television markets other than major markets as defined in §76.51, television broadcast stations within whose Grade B contours the community of the community unit or the community within which the sporting event is taking place is located, in whole or in part;

(c) Television broadcast stations licensed to other designated communities which are generally considered to be part of the same television market (Example: Burlington, Vt.-Plattsburgh, N.Y. or Cincinnati, Ohio-Newport, Ky., television markets);

(d) Television broadcast stations that are significantly viewed, pursuant to §76.54, in the community unit or community within the specified zone.


§ 76.130 Substitutions.

Whenever, pursuant to the requirements of the network program non-duplication, syndicated program exclusivity, or sports blackout rules, a satellite carrier is required to delete a television program from retransmission to satellite subscribers within a zip code area, such satellite carrier may, consistent with this Subpart, substitute a program from any other television broadcast station for which the satellite carrier has obtained the necessary legal rights and permissions, including but not limited to copyright and retransmission consent. Programs substituted pursuant to this section may be carried to their completion.

Subpart G—Cablecasting

§ 76.205 Origination cablecasts by legally qualified candidates for public office; equal opportunities.

(a) General requirements. No cable television system is required to permit the use of its facilities by any legally qualified candidate for public office, but if any system shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other candidates for that office to use such facilities. Such system shall have no power of censorship over the material broadcast by any such candidate. Appearance by a legally qualified candidate on any:

(1) Bona fide newscast;

(2) Bona fide news interview;

(3) Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

(4) On-the-spot coverage of bona fide news events (including, but not limited to political conventions and activities incidental thereto) shall not be deemed to be use of a system. (section 315(a) of the Communications Act.)

(b) Uses. As used in this section and §76.206, the term “use” means a candidate appearance (including by voice or picture) that is not exempt under paragraphs 76.205 (a)(1) through (a)(4) of this section.

(c) Timing of request. A request for equal opportunities must be submitted to the system within 1 week of the day on which the first prior use giving rise to the right of equal opportunities occurred: Provided, however, That where the person was not a candidate at the time of such first prior use, he or she shall submit his or her request within 1 week of the first subsequent use after he or she has become a legally qualified candidate for the office in question.

(d) Burden of proof. A candidate requesting equal opportunities of the system or complaining of noncompliance to the Commission shall have the burden of proving that he or she and his or her opponent are legally qualified candidates for the same public office.

(e) Discrimination between candidates. In making time available to candidates for public office, no system shall make any discrimination between candidates in practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any system.
Federal Communications Commission § 76.206

make any contract or other agreement which shall have the effect of permit-
ting any legally qualified candidate for any public office to cablecast to the ex-
clusion of other legally qualified can-
didates for the same public office.

[57 FR 210, Jan. 3, 1992, as amended at 59 FR
14568, Mar. 29, 1994]

§ 76.206 Candidate rates.

(a) Charges for use of cable television systems. The charges, if any, made for the use of any system by any person who is a legally qualified candidate for any public office in connection with his or her campaign for nomination for election, or election, to such office shall not exceed:

(i) During the 45 days preceding the date of a primary or primary runoff election and during the 60 days pre-
ceeding the date of a general or special election in which such person is a can-
didate, the lowest unit charge of the system for the same class and amount of time for the same period.

(ii) A candidate shall be charged no more per unit than the system charges its most favored commercial adver-
sizers for the same classes and amounts of time for the same periods. Any sys-

(iii) Systems may establish and de-
fine their own reasonable classes of im-
mediately preemptible time so long as the differences between such classes are based on one or more demonstrable benefits associated with each class and are not based solely upon price or iden-
tity of the advertiser. Such demon-
strable benefits include, but are not limited to, varying levels of preemp-
tion protection, scheduling flexibility, or associated privileges, such as guar-
anteed time-sensitive make goods. Sys-
tems may not use class distinctions to defeat the purpose of the lowest unit charge requirement. All classes must be fully disclosed and made available to candidates.

(iv) Systems may establish reason-
able classes of preemptible with notice time so long as they clearly define all such classes, fully disclose them and make them available to candidates.

(v) Systems may treat non-
preemptible and fixed position as dist-
tinct classes of time provided that sys-

tems articulate clearly the differences between such classes, fully disclose them, and make them available to can-
didates.

(vi) Systems shall not establish a separate, premium-priced class of time sold only to candidates. Systems may sell higher-priced non-preemptible or fixed time to candidates if such a class of time is made available on a bona fide basis to both candidates and commer-
cial advertisers, and provided such class is not functionally equivalent to any lower-priced class of time sold to commercial advertisers.

(vii) [Reserved]

(viii) Lowest unit charge may be cal-
culated on a weekly basis with respect to time that is sold on a weekly basis, such as rotations through particular programs or dayparts. Systems electing to calculate the lowest unit charge by such a method must include in that calculation all rates for all announce-
ments scheduled in the rotation, in-
cluding announcements aired under long-term advertising contracts. Sys-
tems may implement rate increases during election periods only to the ex-
tent that such increases constitute “ordinary business practices,” such as seasonal program changes or changes in audience ratings.

(ix) Systems shall review their adver-
sizing records periodically throughout the election period to determine whether compliance with this section requires that candidates receive re-
bates or credits. Where necessary, sys-
tems shall issue such rebates or credits promptly.

(x) Unit rates charged as part of any package, whether individually negoti-
tiated or generally available to all ad-
vertisers, must be included in the low-
est unit charge calculation for the