§ 76.123 Satellite syndicated program exclusivity.

(a) Upon receiving notification pursuant to paragraph (d) of this section, a satellite carrier shall not deliver, to subscribers located within zip code areas in whole or in part within the zone of protection of a commercial television station licensed by the Commission, a program carried on a nationally distributed superstation or on a station carried pursuant to §76.54 of this chapter when the syndicated program exclusivity rights to such program are held by the commercial television station providing notice, except as provided in paragraphs (k), (l) and (m) of this section.

(b) Television broadcast station licensees shall be entitled to exercise exclusivity rights pursuant to this Section in accordance with the contractual provisions of their syndicated program license agreements, consistent with §76.124.

(c) Distributors of syndicated programming shall be entitled to exercise exclusive rights pursuant to this Section for a period of one year from the initial broadcast syndication licensing of such programming anywhere in the United States; provided, however, that distributors shall not be entitled to exercise such rights in areas in which the programming has already been licensed.

(d) In order to exercise exclusivity rights pursuant to this Section, distributors of syndicated programming or television broadcast stations shall notify each satellite carrier of the exclusivity sought in accordance with the requirements of this paragraph. Syndicated program exclusivity notices shall include the following information:

(1) The name and address of the party requesting exclusivity and the television broadcast station or other party holding the exclusive right;

(2) The name of the program or series (including specific episodes where necessary) for which exclusivity is sought;

(3) The dates on which exclusivity is to begin and end; and

(4) A list of the U.S. postal zip code(s) that encompass the zone of protection under these rules.

(e) A distributor or television station exercising exclusivity pursuant to this Section shall provide to the satellite carrier, upon request, an exact copy of those portions of the exclusivity contracts, such portions to be signed by both the distributor and the television station, setting forth in full the provisions pertinent to the duration, nature, and extent of the exclusivity terms concerning broadcast signal exhibition to which the parties have agreed.

(f) Television broadcast stations or distributors entering into contracts on or after November 29, 2000, which contain syndicated exclusivity protection with respect to satellite retransmission of programming, shall notify affected satellite carriers within sixty calendar days of the signing of such a contract.

(g) Except as otherwise provided in this section, a television broadcast station shall be entitled to exclusivity protection beginning on the later of:

(1) The dates specified in its notice to the satellite carrier; or
§ 76.124 Requirements for invocation of protection.

For a television broadcast station licensee or distributor of syndicated programming to be eligible to invoke the provisions of §76.122 or §76.123 of this subpart, it must have a contract or other written indicia that it holds network program non-duplication or syndicated exclusivity rights for the exhibition of the program in question. Contracts entered on or after November 29, 2000, must contain the following words: “the licensee [or substitute name] shall, by the terms of this contract, be entitled to invoke the protection against duplication of programming imported under the Statutory Copyright License, as provided in §76.122 or §76.123 of the FCC rules [or ‘as provided in the FCC’s satellite network non-duplication or syndicated exclusivity rules’].” Contracts entered into prior to November 29, 2000, must contain the foregoing language plus a clear and