Federal Communications Commission

§ 76.66 Satellite broadcast signal carriage.

(a) Definitions—(1) Satellite carrier. A satellite carrier is an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission, and operates in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of the Code of Federal Regulations, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or a service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing.

(2) Secondary transmission. A secondary transmission is the further transmitting of a primary transmission simultaneously with the primary transmission.
§ 76.66

(3) Subscriber. A subscriber is a person who receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

(4) Television broadcast station. A television broadcast station is an over-the-air commercial or noncommercial television broadcast station licensed by the Commission under subpart E of part 73 of title 47, Code of Federal Regulations, except that such term does not include a low-power or translator television station.

(5) Television network. For purposes of this section, a television network is an entity which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated broadcast stations in 10 or more States.

(6) Local-into-local television service. A satellite carrier is providing local-into-local service when it retransmits a local television station signal back into the local market of that television station for reception by subscribers.

(b) Signal carriage obligations. (1) Each satellite carrier providing, under section 122 of title 17, United States Code, secondary transmissions to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, shall carry upon request the signals of all television broadcast stations located within that local market, subject to section 325(b) of title 47, United States Code, and other paragraphs in this section. Satellite carriers are required to carry digital-only stations upon request in markets in which the satellite carrier is providing any local-into-local service pursuant to the statutory copyright license.

(2) A satellite carrier that offers multichannel video programming distribution service in the United States to more than 5,000,000 subscribers shall, no later than December 8, 2005, carry upon request the signal originating as an analog signal of each television broadcast station that is located in a local market in Alaska or Hawaii; and shall, no later than June 8, 2007, carry upon request the signals originating as digital signals of each television broadcast station that is located in a local market in Alaska or Hawaii. Such satellite carrier is not required to carry the signal originating as analog after commencing carriage of digital signals on June 8, 2007. Carriage of signals originating as digital signals of each television broadcast station that is located in a local market in Alaska or Hawaii shall include the entire free over-the-air signal, including multicast and high definition digital signals.

(c) Election cycle. In television markets where a satellite carrier is providing local-into-local service, a commercial television broadcast station may elect either retransmission consent, pursuant to section 325 of title 47 United States Code, or mandatory carriage, pursuant to section 338, title 47 United States Code.

(1) The first retransmission consent-mandatory carriage election cycle shall be for a four-year period commencing on January 1, 2002 and ending December 31, 2005.

(2) The second retransmission consent-mandatory carriage election cycle, and all cycles thereafter, shall be for a period of three years (e.g. the second election cycle commences on January 1, 2006 and ends at midnight on December 31, 2008).

(3) A commercial television station must notify a satellite carrier, by July 1, 2001, of its retransmission consent-mandatory carriage election for the first election cycle commencing January 1, 2002.

(4) Except as provided in paragraphs (c)(6), (d)(2) and (d)(3) of this section, local commercial television broadcast stations shall make their retransmission consent-mandatory carriage election by October 1st of the year preceding the new cycle for all election cycles after the first election cycle.

(5) A noncommercial television station must request carriage by July 1, 2001 for the first election cycle and must renew its carriage request at the same time a commercial television station must make its retransmission consent-mandatory carriage election for all subsequent cycles.

(6) A commercial television broadcast station located in a local market in Alaska or Hawaii shall make its retransmission consent-mandatory carriage election by October 1, 2005, for
carriage of its signal that originates as an analog signal for carriage commencing on December 8, 2005, and by April 1, 2007, for its signal that originates as a digital signal for carriage commencing on June 8, 2007 and ending on December 31, 2008. For analog and digital signal carriage cycles commencing after December 31, 2008, such stations shall follow the election cycle in paragraphs (c)(2) and (4). A non-commercial television broadcast station located in a local market in Alaska or Hawaii must request carriage by October 1, 2005, for carriage of its signal that originates as an analog signal for carriage commencing on December 8, 2005, and by April 1, 2007, for its signal that originates as a digital signal for carriage commencing on June 8, 2007 and ending on December 31, 2008.

(d) **Carriage procedures**—(1) **Carriage requests.** (i) An election for mandatory carriage made by a television broadcast station shall be treated as a request for carriage. For purposes of this paragraph concerning carriage procedures, the term election request includes an election of retransmission consent or mandatory carriage.

(ii) An election request made by a television station must be in writing and sent to the satellite carrier’s principal place of business, by certified mail, return receipt requested.

(iii) A television station’s written notification shall include the:

(A) Station’s call sign;

(B) Name of the appropriate station contact person;

(C) Station’s address for purposes of receiving official correspondence;

(D) Station’s community of license;

(E) Station’s DMA assignment; and

(F) For commercial television stations, its election of mandatory carriage or retransmission consent.

(iv) Within 30 days of receiving a television station’s carriage request, a satellite carrier shall notify in writing:

(A) those local television stations it will not carry, along with the reasons for such a decision; and

(B) those local television stations it intends to carry.

(v) A satellite carrier is not required to carry a television station, for the duration of the election cycle, if the station fails to assert its carriage rights by the deadlines established in this section.

(2) **New local-into-local service.** (i) A new satellite carrier or a satellite carrier providing local service in a market for the first time after July 1, 2001, shall inform each television broadcast station licensee within any local market in which a satellite carrier proposes to commence carriage of signals of stations from that market, not later than 60 days prior to the commencement of such carriage.

(A) Of the carrier’s intention to launch local-into-local service under this section in a local market, the identity of that local market, and the location of the carrier’s proposed local receive facility for that local market;

(B) Of the right of such licensee to elect carriage under this section or grant retransmission consent under section 325(b);

(C) That such licensee has 30 days from the date of the receipt of such notice to make such election; and

(D) That failure to make such election will result in the loss of the right to demand carriage under this section for the remainder of the 3-year cycle of carriage under section 325.

(ii) Satellite carriers shall transmit the notices required by paragraph (d)(2)(i) of this section via certified mail to the address for such television station licensee listed in the consolidated database system maintained by the Commission.

(iii) A satellite carrier with more than five million subscribers shall provide the notice as required by paragraphs (d)(2)(i) and (ii) of this section to each television broadcast station licensee listed in the consolidated database system maintained by the Commission.

(iv) A satellite carrier with more than five million subscribers shall provide the notice as required by paragraphs (d)(2)(i) and (ii) of this section to each television broadcast station located in a local market in Alaska or Hawaii, not later than March 1, 2007, with respect to carriage of digital signals, provided, further, that the notice shall also describe the carriage requirements pursuant to 47 U.S.C. 338(a)(4), and paragraph (b)(2) of this section.

(iv) A satellite carrier shall commence carriage of a local station by the later of 90 days from receipt of an election of mandatory carriage or upon commencing local-into-local service in the new television market.
(v) Within 30 days of receiving a local television station’s election of mandatory carriage in a new television market, a satellite carrier shall notify in writing: Those local television stations it will not carry, along with the reasons for such decision, and those local television stations it intends to carry.

(vi) Satellite carriers shall notify all local stations in a market of their intent to launch HD carry-one, carry-all in that market at least 60 days before commencing such carriage.

(3) New television stations. (i) A television station providing over-the-air service in a market for the first time on or after July 1, 2001, shall be considered a new television station for satellite carriage purposes.

(ii) A new television station shall make its election request, in writing, sent to the satellite carrier’s principal place of business by certified mail, return receipt requested, between 60 days prior to commencing broadcasting and 30 days after commencing broadcasting. This written notification shall include the information required by paragraph (d)(1)(iii) of this section.

(iii) A satellite carrier shall commence carriage within 90 days of receiving the request for carriage from the television broadcast station or whenever the new television station provides over-the-air service.

(iv) Within 30 days of receiving a new television station’s election of mandatory carriage, a satellite carrier shall notify the station in writing that it will not carry the station, along with the reasons for such decision, or that it intends to carry the station.

(4) Television broadcast stations must send election requests as provided in paragraphs (d)(1), (2), and (3) of this section on or before the relevant deadline.

(5) Elections in markets in which significantly viewed signals are carried. (i) Beginning with the election cycle described in §76.66(c)(2), the retransmission of significantly viewed signals pursuant to §76.54 by a satellite carrier that provides local-into-local service is subject to providing the notifications to stations in the market pursuant to paragraphs (d)(5)(i)(A) and (B) of this section, unless the satellite carrier was retransmitting such signals as of the date these notifications were due.

(A) In any local market in which a satellite carrier provided local-into-local service on December 8, 2004, at least 60 days prior to any date on which a station must make an election under paragraph (c) of this section, identify each affiliate of the same television network that the carrier reserves the right to retransmit into that station’s local market during the next election cycle and the communities into which the satellite carrier reserves the right to make such retransmissions;

(B) In any local market in which a satellite carrier commences local-into-local service after December 8, 2004, at least 60 days prior to the commencement of service in that market, and thereafter at least 60 days prior to any date on which the station must thereafter make an election under §76.66(c) or (d)(2), identify each affiliate of the same television network that the carrier reserves the right to retransmit into that station’s local market during the next election cycle.

(ii) A television broadcast station located in a market in which a satellite carrier provides local-into-local television service may elect either retransmission consent or mandatory carriage for each county within the station’s local market if the satellite carrier provided notice to the station, pursuant to paragraph (d)(5)(i) of this section, that it intends to carry during the next election cycle, or has been carrying on the date notification was due, in the station’s local market another affiliate of the same network as a significantly viewed signal pursuant to §76.54.

(iii) A television broadcast station that elects mandatory carriage for one or more counties in its market and elects retransmission consent for one or more other counties in its market pursuant to paragraph (d)(5)(ii) of this section shall conduct a unified negotiation for the entire portion of its local market for which retransmission consent is elected.

(iv) A television broadcast station that receives a notification from a satellite carrier pursuant to paragraph (d)(5)(i) of this section with respect to an upcoming election cycle may choose
either retransmission consent or mandatory carriage for any portion of the 3-year election cycle that is not covered by an existing retransmission consent agreement.

(e) Market definitions. (1) A local market, in the case of both commercial and noncommercial television broadcast stations, is the designated market area in which a station is located, and

(i) In the case of a commercial television broadcast station, all commercial television broadcast stations licensed to a community within the same designated market area within the same local market; and

(ii) In the case of a noncommercial educational television broadcast station, the market includes any station that is licensed to a community within the same designated market area as the noncommercial educational television broadcast station.

(2) A designated market area is the market area, as determined by Nielsen Media Research and published in the 1999–2000 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication. In the case of areas outside of any designated market area, any census area, borough, or other area in the State of Alaska that is outside of a designated market area, as determined by Nielsen Media Research, shall be deemed to be part of one of the local markets in the State of Alaska.

(3) A satellite carrier shall use the 1999–2000 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates to define television markets for the first retransmission consent-mandatory carriage election cycle commencing on January 1, 2002 and ending on December 31, 2005. The 2003–2004 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates shall be used for the second retransmission consent-mandatory carriage election cycle commencing January 1, 2006 and ending December 31, 2008, and so forth for each triennial election pursuant to this section. Provided, however, that a county deleted from a market by Nielsen need not be subtracted from a market in which a satellite carrier provides local-into-local service, if that county is assigned to that market in the 1999–2000 Nielsen Station Index Directory or any subsequent issue of that publication. A satellite carrier may determine which local market in the State of Alaska will be deemed to be the relevant local market in contention with each subscriber in an area in the State of Alaska that is outside of a designated market, as described in paragraph (e)(2) of this section.

(4) A local market includes all counties to which stations assigned to that market are licensed.

(f) Receive facilities. (1) A local receive facility is the reception point in each local market which a satellite carrier designates for delivery of the signal of the station for purposes of retransmission.

(2) A satellite carrier may establish another receive facility to serve a market if the location of such a facility is acceptable to at least one-half the stations with carriage rights in that market.

(3) Except as provided in 76.66(d)(2), a satellite carrier providing local-into-local service must notify local television stations of the location of the receive facility by June 1, 2001 for the first election cycle and at least 120 days prior to the commencement of all election cycles thereafter.

(4) A satellite carrier may relocate its local receive facility at the commencement of each election cycle. A satellite carrier is also permitted to relocate its local receive facility during the course of an election cycle, if it bears the signal delivery costs of the television stations affected by such a move. A satellite carrier relocating its local receive facility must provide 60 days notice to all local television stations carried in the affected television market.

(g) Good quality signal. (1) A television station asserting its right to carriage shall be required to bear the costs associated with delivering a good quality signal to the designated local receive facility of the satellite carrier or to another facility that is acceptable to at least one-half the stations asserting the right to carriage in the local market.
(2) To be considered a good quality signal for satellite carriage purposes, a television station shall deliver to the local receive facility of a satellite carrier either a signal level of -45dBm for UHF signals or -49dBm for VHF signals at the input terminals of the signal processing equipment.

(3) A satellite carrier is not required to carry a television station that does not agree to be responsible for the costs of delivering a good quality signal to the receive facility.

(b) Duplication signals. (1) A satellite carrier shall not be required to carry upon request the signal of any local television broadcast station that substantially duplicates the signal of another local television broadcast station which is secondarily transmitted by the satellite carrier within the same local market, or the signals of more than one local commercial television broadcast station in a single local market that is affiliated with a particular television network unless such stations are licensed to communities in different States.

(2) A satellite carrier may select which duplicating signal in a market it shall carry.

(3) A satellite carrier may select which network affiliate in a market it shall carry.

(4) A satellite carrier is permitted to drop a local television station whenever that station meets the substantial duplication criteria set forth in this paragraph. A satellite carrier must add a television station to its channel lineup if such station no longer duplicates the programming of another local television station.

(5) A satellite carrier shall provide notice to its subscribers, and to the affected television station, whenever it adds or deletes a station’s signal in a particular local market pursuant to this paragraph.

(6) A commercial television station substantially duplicates the programming of another commercial television station if it simultaneously broadcasts the identical programming of another station for more than 50 percent of the broadcast week.

(7) A noncommercial television station substantially duplicates the programming of another noncommercial station if it simultaneously broadcasts the same programming as another non-commercial station for more than 50 percent of prime time, as defined by §76.5(n), and more than 50 percent outside of prime time over a three month period. Provided, however, that after three noncommercial television stations are carried, the test of duplication shall be whether more than 50 percent of prime time programming and more than 50 percent outside of prime time programming is duplicative on a non-simultaneous basis.

(i) Channel positioning. (1) No satellite carrier shall be required to provide the signal of a local television broadcast station to subscribers in that station’s local market on any particular channel number or to provide the signals in any particular order, except that the satellite carrier shall retransmit the signal of the local television broadcast stations to subscribers in the stations’ local market on contiguous channels.

(2) The television stations subject to this paragraph include those carried under retransmission consent.

(3) All local television stations carried under mandatory carriage in a particular television market must be offered to subscribers at rates comparable to local television stations carried under retransmission consent in that same market.

(4) Within a market, no satellite carrier shall provide local-into-local service in a manner that requires subscribers to obtain additional equipment at their own expense or for an additional carrier charge in order to obtain one or more local television broadcast signals if such equipment is not required for the receipt of other local television broadcast signals.

(j) Manner of carriage. (1) Each television station carried by a satellite carrier, pursuant to this section, shall include in its entirety the primary video, accompanying audio, and closed
captioning data contained in line 21 of
the vertical blanking interval and, to
the extent technically feasible, pro-
gram-related material carried in the
vertical blanking interval or on subcar-
rriers. For noncommercial educational
 television stations, a satellite carrier
must also carry any program-related
material that may be necessary for re-
ceipt of programming by persons with
disabilities or for educational or lan-
guage purposes. Secondary audio pro-
gramming must also be carried. Where
appropriate and feasible, satellite car-
rriers may delete signal enhancements,
such as ghost-canceling, from the
broadcast signal and employ such en-
hancements at the local receive facil-
ity.

(2) A satellite carrier, at its discre-
tion, may carry any ancillary service
transmission on the vertical blanking
interval or the aural baseband of any
television broadcast signal, including,
but not limited to, multichannel tele-
vision sound and teletext.

(k) Material degradation. (1) Each
local television station whose signal is
carried under mandatory carriage
shall, to the extent technically feasible
and consistent with good engineering
practice, be provided with the same
quality of signal processing provided to
television stations electing retrans-
mission consent, including carriage of
HD signals in HD if any local station in
the same market is carried in HD. A
satellite carrier is permitted to use
reasonable digital compression tech-
niques in the carriage of local tele-
vision stations.

(2) Satellite carriers must provide
carriage of local stations’ HD signals if
any local station in the same market is
carried in HD, pursuant to the fol-
lowing schedule:

(i) In at least 15% of the markets in
which they carry any station pursuant
to the statutory copyright license in
HD by February 17, 2010;

(ii) In at least 30% of the markets in
which they carry any station pursuant
to the statutory copyright license in
HD no later than February 17, 2011;

(iii) In at least 60% of the markets in
which they carry any station pursuant
to the statutory copyright license in
HD no later than February 17, 2012; and

(iv) In 100% of the markets in which
they carry any station pursuant to the
statutory copyright license in HD by
February 17, 2013.

(1) Compensation for carriage. (1) A sat-
ellite carrier shall not accept or re-
quest monetary payment or other valu-
able consideration in exchange either
for carriage of local television broad-
cast stations in fulfillment of the man-
datory carriage requirements of this
section or for channel positioning
rights provided to such stations under
this section, except that any such sta-
tion may be required to bear the costs
associated with delivering a good qual-
ity signal to the receive facility of the
satellite carrier.

(2) A satellite carrier may accept
payments from a station pursuant to a
retransmission consent agreement.

(m) Remedies. (1) Whenever a local
television broadcast station believes
that a satellite carrier has failed to
meet its obligations under this section,
such station shall notify the carrier, in
writing, of the alleged failure and iden-
tify its reasons for believing that the
satellite carrier failed to comply with
such obligations.

(2) The satellite carrier shall, within
30 days after such written notification,
respond in writing to such notification
and comply with such obligations or
state its reasons for believing that it is
in compliance with such obligations.

(3) A local television broadcast sta-
tion that disputes a response by a sat-
ellite carrier that it is in compliance
with such obligations may obtain re-
view of such denial or response by fil-
ing a complaint with the Commission,
in accordance with §76.7 of title 47,
Code of Federal Regulations. Such
complaint shall allege the manner in
which such satellite carrier has failed
to meet its obligations and the basis
for such allegations.

(4) The satellite carrier against
which a complaint is filed is permitted
to present data and arguments to es-
tablish that there has been no failure
to meet its obligations under this sec-
tion.

(5) The Commission shall determine
whether the satellite carrier has met
its obligations under this section. If
the Commission determines that the
satellite carrier has failed to meet such
§ 76.70 Exemption from input selector switch rules.

(a) In any case of cable systems serving communities where no portion of the community is covered by the predicted Grade B contour of at least one full service broadcast television station, or non-commercial educational television translator station operating with 5 or more watts output power and where the signals of no such broadcast stations are "significantly viewed" in the county where such a cable system is located, the cable system shall be exempt from the provisions of §76.66. Cable systems may be eligible for this exemption where they demonstrate with engineering studies prepared in accordance with §73.686 of this chapter or other showings that broadcast signals meeting the above criteria are not actually viewable within the community.

(b) Where a new full service broadcast television station, or new non-commercial educational television translator station with 5 or more watts, or an existing such station of either type with newly upgraded facilities provides predicted Grade B service to a community served by a cable system previously exempt under paragraph (a) of this section, or the signal of any such broadcast station is newly determined to be "significantly viewed" in the county where such a cable system is located, the cable system at that time is required to comply fully with the provisions of §76.66. Cable systems may retain their exemption under paragraph (a) of this section where they demonstrate with engineering studies prepared in accordance with §73.686 of this chapter or other showings that broadcast signals meeting the above criteria are not actually viewable within the community.


§ 76.71 Scope of application.

(a) The provisions of this subpart shall apply to any corporation, partnership, association, joint-stock company, or trust engaged primarily in the management or operation of any cable system. Cable entities subject to these provisions include those systems defined in §76.5(a), all satellite master antenna television systems serving 50 or more subscribers, and any multichannel video programming distributor. For purposes of the provisions of this subpart, a multichannel video programming distributor is an entity such as, but not limited to, a cable operator, a BRS/EBS provider, a direct broadcast satellite service, a television receive-only satellite program distributor, or a video dialtone program service provider, who makes available for purchase, by subscribers or customers, multiple channels of video programming, whether or not a licensee. Multichannel video programming distributors do not include any entity which lacks control over the video programming distributed. For purposes of this subpart, an entity has control over the video programming it distributes, if it selects video programming channels or programs and determines how they are presented for sale to consumers. Notwithstanding the foregoing, the regulations in this subpart are not applicable to the owners or originators (of programs or channels of programming) that distribute six or fewer channels of commonly-owned video programming over a leased transport facility. For purposes of this subpart, programming services are "commonly-owned" if the same entity holds a majority of the stock (or is a general partner) of each program service.

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