

§ 76.70

after a satellite carrier, either implicitly or explicitly, denies a television station's carriage request.

(n) *Channel sharing carriage rights.* A broadcast television station that voluntarily relinquishes spectrum usage rights under § 73.3700 of this chapter in order to share a television channel and that possessed carriage rights under section 338, 614, or 615 of the Communications Act of 1934 (47 U.S.C. 338; 534; 535) on November 30, 2010, shall have, at its shared location, the carriage rights under such section that would apply to such station at such location if it were not sharing a channel.

(o) *Next Gen TV carriage rights.* (1) A broadcast television station that chooses to deploy Next Gen TV service, see § 73.682(f) of this chapter, may assert mandatory carriage rights under this section only with respect to its ATSC 1.0 signal and may not assert mandatory carriage rights with respect to its ATSC 3.0 signal.

(2) With respect to a Next Gen TV station that moves its 1.0 simulcast signal to a host station's (*i.e.*, a station whose facilities are being used to transmit programming originated by another station) facilities, the station may assert mandatory carriage rights under this section only if it:

(i) Qualified for, and has been exercising, mandatory carriage rights at its original location; and

(ii) Continues to qualify for mandatory carriage at the host station's facilities, including (but not limited to) delivering a good quality 1.0 signal to the satellite carrier local receive facility, or agreeing to be responsible for the costs of delivering such 1.0 signal to the satellite carrier.

[66 FR 7430, Jan. 23, 2001, as amended at 66 FR 49135, Sept. 26, 2001; 70 FR 21670, Apr. 27, 2005; 70 FR 51668, Aug. 31, 2005; 70 FR 53079, Sept. 7, 2005; 73 FR 24508, May 5, 2008; 77 FR 30426, May 23, 2012; 80 FR 59664, Oct. 2, 2015; 83 FR 5028, Feb. 2, 2018; 84 FR 45669, Aug. 30, 2019; 85 FR 16005, Mar. 20, 2020]

§ 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 sta-

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tion, 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.

[54 FR 25716, June 19, 1989]

Subpart E—Equal Employment Opportunity Requirements

SOURCE: 50 FR 40855, Oct. 7, 1985, unless otherwise noted.

§ 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.

(b) *Employment units.* The provisions of this subpart shall apply to cable entities as employment units. Each cable entity may be considered a separate employment unit; however, where two or more cable entities are under common ownership or control and are interrelated in their local management, operation, and utilization of employees, they shall constitute a single employment unit.

(c) *Headquarters office.* A multiple cable operator shall treat as a separate employment unit each headquarters office to the extent the work of that office is primarily related to the operation of more than one employment unit as described in paragraph (b) of this section.

[50 FR 40855, Oct. 7, 1985, as amended at 58 FR 42250, Aug. 9, 1993; 69 FR 72045, Dec. 10, 2004]

§ 76.73 General EEO policy.

(a) Equal opportunity in employment shall be afforded by each cable entity to all qualified persons, and no person shall be discriminated against in employment by such entity because of race, color, religion, national origin, age or sex.

(b) Each employment unit shall establish, maintain, and carry out a positive continuing program of specific practices designed to assure equal opportunity to every aspect of cable system employment policy and practice. Under the terms of its program, an employment unit shall:

(1) Define the responsibility of each level of management to ensure a positive application and vigorous enforcement of its policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance;

(2) Inform its employees and recognized employee organizations of the positive equal employment opportunity policy and program and enlist their cooperation;

(3) Communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, age or sex, and solicit their recruitment assistance on a continuing basis;

(4) Conduct a continuing program to exclude every form of prejudice or discrimination based upon race, color, religion, national origin, age or sex from its personnel policies and practices and working conditions; and

(5) Conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all organizational units, occupations, and levels of responsibility.

§ 76.75 Specific EEO program requirements.

Under the terms of its program, an employment unit must:

(a) Disseminate its equal employment opportunity program to job applicants, employees, and those with whom it regularly does business. For example, this requirement may be met by: