

section 338 of this title on December 8, 2004, the carrier may notify a television broadcast station in that market, at least 60 days prior to any date on which the station must thereafter make an election under section 76.66 of the Commission's regulations (47 CFR 76.66), of—

(I) each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market pursuant to this section during the next election cycle under such section of such regulations; and

(II) for each such affiliate, the communities into which the satellite carrier reserves the right to make such retransmissions.

(ii) In any local market in which the satellite carrier commences service pursuant to section 338 of this title after December 8, 2004, the carrier may notify a station in that market, at least 60 days prior to the introduction of such service in that market, and thereafter at least 60 days prior to any date on which the station must thereafter make an election under section 76.66 of the Commission's regulations (47 CFR 76.66), of 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 under such section of such regulations.

(iii) Beginning with the 2005 election cycle, a satellite carrier may only retransmit pursuant to this section during the pertinent election period a signal—

(I) as to which it has provided the notifications set forth in clauses (i) and (ii); or

(II) that it was retransmitting into the local market under this section as of the date such notifications were due.

**(B) Harmonization of elections and retransmission consent agreements**

If a satellite carrier notifies a television broadcast station that it reserves the right to retransmit an affiliate of the same television network during the next election cycle pursuant to this section, the station may choose between retransmission consent and mandatory carriage for any portion of the 3-year election cycle that is not covered by an existing retransmission consent agreement.

**(i) Definitions**

As used in this section:

**(1) Local market; satellite carrier; subscriber; television broadcast station**

The terms "local market", "satellite carrier", "subscriber", and "television broadcast station" have the meanings given such terms in section 338(k) of this title.

**(2) Network station; television network**

The terms "network station" and "television network" have the meanings given such terms in section 339(d) of this title.

**(3) Community**

The term "community" means—

(A) a county or a cable community, as determined under the rules, regulations, and authorizations of the Commission applicable to determining with respect to a cable system whether signals are significantly viewed; or

(B) a satellite community, as determined under such rules, regulations, and authorizations (or revisions thereof) as the Commission may prescribe in implementing the requirements of this section.

(June 19, 1934, ch. 652, title III, §340, as added Pub. L. 108-447, div. J, title IX [title II, §202(a)], Dec. 8, 2004, 118 Stat. 3409; amended Pub. L. 111-175, title II, §§203(a), 204(c), May 27, 2010, 124 Stat. 1245, 1250.)

**Editorial Notes**

REFERENCES IN TEXT

Section 119(a)(4)(A) and section 119(a)(12) of title 17, referred to in subsec. (e)(2), were redesignated as sections 119(a)(3)(A) and 119(a)(11) of title 17, respectively, by Pub. L. 111-175, title I, §102(h)(1)(B), May 27, 2010, 124 Stat. 1224. Section 119(a)(3) of title 17 was repealed and section 119(a)(4) was redesignated as section 119(a)(3) by Pub. L. 116-94, div. P, title XI, §1102(a)(1)(B), (C), Dec. 20, 2019, 133 Stat. 3202. Section 119(a)(11) of title 17 was redesignated as section 119(a)(8) by Pub. L. 116-94, div. P, title XI, §1102(a)(1)(C), Dec. 20, 2019, 133 Stat. 3202.

AMENDMENTS

2010—Subsec. (b)(1), (2). Pub. L. 111-175, §203(a), amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) related to limitations for certain analog and digital services, respectively.

Subsec. (i)(4). Pub. L. 111-175, §204(c), struck out par. (4). Text read as follows: "The terms 'equivalent bandwidth' and 'entire bandwidth' shall be defined by the Commission by regulation, except that this paragraph shall not be construed—

"(A) to prevent a satellite operator from using compression technology;

"(B) to require a satellite operator to use the identical bandwidth or bit rate as the local or distant broadcaster whose signal it is retransmitting;

"(C) to require a satellite operator to use the identical bandwidth or bit rate for a local network station as it does for a distant network station;

"(D) to affect a satellite operator's obligations under subsection (a)(1) of this section; or

"(E) to affect the definitions of 'program related' and 'primary video'."

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-175 effective Feb. 27, 2010, see section 307(a) of Pub. L. 111-175, set out as a note under section 111 of Title 17, Copyrights.

RULEMAKING REQUIRED

Pub. L. 111-175, title II, §203(b), May 27, 2010, 124 Stat. 1245, provided that: "Within 270 days after the date of the enactment of this Act [deemed to refer to Feb. 27, 2010, see section 307(a) of Pub. L. 111-175, set out as an Effective Date of 2010 Amendment note under section 111 of Title 17, Copyrights], the Federal Communications Commission shall take all actions necessary to promulgate a rule to implement the amendments made by subsection (a) [amending this section]."

**§ 341. Carriage of television signals to certain subscribers**

(a)(1) IN GENERAL.—A cable operator or satellite carrier may elect to retransmit, to subscribers in an eligible county—

(A) any television broadcast stations that are located in the State in which the county is located and that any cable operator or satellite carrier was retransmitting to subscribers in the county on January 1, 2004; or

(B) up to 2 television broadcast stations located in the State in which the county is located, if the number of television broadcast stations that the cable operator or satellite carrier is authorized to carry under paragraph (1) is less than 3.

(2) **DEEMED SIGNIFICANTLY VIEWED.**—A station described in subsection (a) is deemed to be significantly viewed in the eligible county within the meaning of section 76.54 of the Commission's regulations (47 CFR 76.54).

(3) **DEFINITION OF ELIGIBLE COUNTY.**—For purposes of this section, the term “eligible county” means any 1 of 4 counties that—

(A) are all in a single State;

(B) on January 1, 2004, were each in designated market areas in which the majority of counties were located in another State or States; and

(C) as a group had a combined total of 41,340 television households according to the U.S. Television Household Estimates by Nielsen Media Research for 2003–2004.

(4) **LIMITATION.**—Carriage of a station under this section shall be at the option of the cable operator or satellite carrier.

(b) **CERTAIN MARKETS.**—Notwithstanding any other provision of law, a satellite carrier may not carry the signal of a television station into an adjacent local market that is comprised of only a portion of a county, other than to unserved households located in that county.

(June 19, 1934, ch. 652, title III, §341, as added Pub. L. 108-447, div. J, title IX [title II, §211], Dec. 8, 2004, 118 Stat. 3430.)

### § 342. Process for issuing qualified carrier certification

#### (a) Certification

The Commission shall issue a certification for the purposes of section 119(g)(3)(A)(iii)<sup>1</sup> of title 17 if the Commission determines that—

(1) a satellite carrier is providing local service pursuant to the statutory license under section 122 of such title in each designated market area; and

(2) with respect to each designated market area in which such satellite carrier was not providing such local service as of the date of enactment of the Satellite Television Extension and Localism Act of 2010—

(A) the satellite carrier's satellite beams are designed, and predicted by the satellite manufacturer's pre-launch test data, to provide a good quality satellite signal to at least 90 percent of the households in each such designated market area based on the most recent census data released by the United States Census Bureau; and

(B) there is no material evidence that there has been a satellite or sub-system failure subsequent to the satellite's launch that

precludes the ability of the satellite carrier to satisfy the requirements of subparagraph (A).

#### (b) Information required

Any entity seeking the certification provided for in subsection (a) shall submit to the Commission the following information:

(1) An affidavit stating that, to the best of the affiant's knowledge, the satellite carrier provides local service in all designated market areas pursuant to the statutory license provided for in section 122 of title 17 and listing those designated market areas in which local service was provided as of the date of enactment of the Satellite Television Extension and Localism Act of 2010.

(2) For each designated market area not listed in paragraph (1):

(A) Identification of each such designated market area and the location of its local receive facility.

(B) Data showing the number of households, and maps showing the geographic distribution thereof, in each such designated market area based on the most recent census data released by the United States Census Bureau.

(C) Maps, with superimposed effective isotropically radiated power predictions obtained in the satellite manufacturer's pre-launch tests, showing that the contours of the carrier's satellite beams as designed and the geographic area that the carrier's satellite beams are designed to cover are predicted to provide a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

(D) For any satellite relied upon for certification under this section, an affidavit stating that, to the best of the affiant's knowledge, there have been no satellite or sub-system failures subsequent to the satellite's launch that would degrade the design performance to such a degree that a satellite transponder used to provide local service to any such designated market area is precluded from delivering a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

(E) Any additional engineering, designated market area, or other information the Commission considers necessary to determine whether the Commission shall grant a certification under this section.

#### (c) Certification issuance

##### (1) Public comment

The Commission shall provide 30 days for public comment on a request for certification under this section.

##### (2) Deadline for decision

The Commission shall grant or deny a request for certification within 90 days after the date on which such request is filed.

#### (d) Subsequent affirmation

An entity granted qualified carrier status pursuant to section 119(g)<sup>1</sup> of title 17 shall file an

<sup>1</sup> See References in Text note below.