

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Electronic Delivery of MVPD Communications)	MB Docket No. 17-317
)	
Modernization of Media Regulation Initiative)	MB Docket No. 17-105

COMMENTS OF NEXSTAR BROADCASTING, INC.

Nexstar Broadcasting, Inc. (“Nexstar”), the licensee of 158 full-power and Class A television stations located in 100 separate designated market areas (“DMAs”), respectfully submits these comments in response to the Public Notice,¹ released on December 13, 2018, in which the Federal Communications Commission’s (“FCC” or “Commission”) requests comment on the Industry Proposal for Carriage Election Notice Modernization (“The Joint Proposal”) filed jointly in the above referenced dockets on December 7, 2018, by the National Association of Broadcasters and NCTA - The Internet and Television Association.²

The Joint Proposal was created as a response to the Notice of Proposed Rulemaking pursuant to which the FCC, among other things, sought comment on how to modernize the must carry/retransmission carriage election communication method between broadcasters and cable operators/satellite carriers.³ Under the current rules, must carry/retransmission carriage election

¹ See Comment Sought on Joint NAB/NCTA Carriage Election Notice Proposal – *In re: Electronic Delivery of MVPD Communications; Modernization of Media Regulation Initiative*, Public Notice, DA 18-1250 (rel. Dec. 13, 2018).

² Letter from Rick Kaplan, General Counsel and Executive Vice President of National Association of Broadcasters (NAB), and Rick Chessen, Chief Legal Officer of NCTA – The Internet and Television Association, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 17-317 (filed Dec. 7, 2018).

³ See *Electronic Delivery of MVPD Communications; Modernization of Media Regulation Initiative*, Notice of Proposed Rulemaking, 32 FCC Rcd 10755 (rel. Dec. 14, 2017) (“NPRM”).

communications are limited to written notices delivered by U.S. mail, certified, and in some instances, must include return receipt requested service.⁴

Nexstar supports the Commission’s ongoing efforts to modernize its rules and reduce the administrative burdens and costs borne by both the Commission and its regulatees in complying with outdated rules – rules like the Election Rules which require the expensive and time consuming process of certified mail as the sole means for broadcasters to notify multichannel video programming providers (“MVPDs”) of their election of retransmission consent or must-carry for each three year renewal cycle.⁵ Nexstar agrees with the Commission that eliminating this outdated delivery notice requirement will be beneficial for all stakeholders through conserving natural resources, decreasing costs and increasing efficiency.⁶

Nexstar concurs with the Joint Proposal and respectfully requests that the FCC revise the television broadcaster to MVPD carriage election notice requirements, established almost three decades ago, to include electronic or e-mail delivery of required notices. This revision stands to reduce the burdens and waste associated with the triennial notice exercise, which includes producing, mailing, manually tracking and posting each and every letter notice to the MVPDs. A burden further frustrated by the fact that most television broadcasters remain consistent in their carriage election from term to term. The proposed rule revisions will further the FCC’s modernization goals through the “positive environmental aspects of saving substantial amounts of paper annually, increased efficiency, and enabling [MVPDs] to more readily access accurate

⁴ 47 CFR § 76.64(h); 47 CFR § 76.66(d)(1)(ii) (the “Election Rules”).

⁵ Indeed, Nexstar previously submitted comments in support of modifying this outdated rule. *See* Comments of Nexstar Broadcasting, Inc., *Electronic Delivery of MVPD Communications and Modernization of Media Regulation Initiative*, MB Docket Nos. 17-317 (filed Feb. 15, 2018) (“*MVPD Election Comments*”), which Nexstar hereby incorporates by reference.

⁶ NPRM at 10758.

information” and “greatly eas[ing] the burden of complying with these notification requirements” for broadcasters.⁷

The effort to transition from the current carriage election process to the electronic delivery method will be minimal for all participants and limited to the creation and posting of carriage election contact information in existing FCC databases or online resources. Television broadcasters and MVPDs, both historically required to publicly post contact information, are already familiar with the posting and maintenance of such information. Accordingly, the obligation to establish and maintain the proposed online carriage election contact information is minimal at best.

Nexstar supports the Joint Proposal’s request to allow current carriage election statuses to stand until further notice of a change and thus all 2017 carriage elections would carry forward indefinitely unless a broadcaster desires to make a change - thereby triggering a new carriage election notice which would be e-mail delivered to the MVPD and inserted into the television broadcaster’s public inspection file. As mentioned above, carriage elections generally do not change from term to term, and as such, the proposed rule revision eliminates significant and unnecessary duplication and thus saves time and money that could be redirected into programming and expanded services to viewers. As specified in the Joint Proposal, the television broadcaster would be obligated to notify the MVPDs of any changes, including but not limited to new service initiation, cessation of service, change in ownership, and update their respective public files.

In addition, revision of the current carriage election rules to include electronic delivery or email delivery would provide television broadcasters with the same reduced expenses and increased efficiency recently extended to the MVPDs, with respect to their required subscriber

⁷ NPRM at 10758.

notices. In the FCC’s November 2018 Report and Order and Further Notice of Proposed Rulemaking, the adopted rule changes allow, among other things, MVPDs to deliver “certain information...and subscriber privacy information”, previously required in a paper notice, to be “provided via verified e-mail...”⁸ Given the technological advances and the pervasive use of the internet and email communications, and the changes in the way business is generally conducted, including the notice, acknowledgement and confirmation process between most parties, e-mail distribution is not a big ask or an unreliable delivery method.

The adoption of electronic delivery of carriage election notices will reduce unnecessary expenditures associated with the administration of the process and the actual costs of completing the broadcaster notice exercise. Therefore, Nexstar urges the Commission to amend its rules to reduce the administrative and financial burdens and unnecessary waste associated with the broadcasters’ mandatory use of an antiquated delivery method, to embrace the advantages of electronic delivery for the Election Rules and ensure that all Commission regulatees are on equal ground.

The Commission must continue its momentum to eliminate outdated rules and policies which unnecessarily consume resources or impede progress in a way that disserves the public interest. Modifying the Election Rules as proposed in the Joint Proposal will vastly reduce the administrative and financial burdens these rules currently impose on television broadcasters without imposing additional burdens on them, the FCC, or the MVPDs. Accordingly, the Commission should amend its carriage election rules to include the electronic delivery and/or e-

⁸ See Electronic Delivery of MVPD Communications; Modernization of Media Regulation Initiative, Report and Order and Further Notice of Proposed Rulemaking, MB Docket Nos. 17-317 and 17-105, FCC 18-166 (rel. Nov. 16, 2018).

mail delivery alternative and the establishment and maintenance of carriage election contact information for television broadcasters and MVPDs.

Respectfully submitted,

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