

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
FCC Form 325 Data Collection)	MB Docket No. 17-290
)	
Modernization of Media Regulation Initiative)	MB Docket No. 17-105
)	

COMMENTS OF VERIZON¹

The Commission should eliminate the FCC Form 325 data collection on cable systems. This data collection has outlived its usefulness given the availability of such information from other sources, and now is only a regulatory burden on those companies obligated to complete the form. To the extent the Commission needs similar information for a specific regulatory or reporting purpose, it can ask providers for data on an as-needed basis. The Commission therefore can and should “take another step toward reducing unnecessary paperwork burdens” and eliminate FCC Form 325.²

I. THE COMMISSION SHOULD ELIMINATE FORM 325 BECAUSE THE DATA COLLECTION SERVES NO USEFUL REGULATORY PURPOSE.

Form 325 has outlived its usefulness, and now the Commission only sporadically cites to it for any purpose. Two decades ago, the Commission opined that Form 325 collects “core

¹ The Verizon companies participating in this filing (“Verizon”) are the regulated, wholly-owned subsidiaries of Verizon Communications Inc.

² Statement of Commissioner Brendan Carr, *FCC Form 325 Data Collection; Modernization of Media Regulation Initiative*, Notice of Proposed Rulemaking, 32 FCC Rcd 9902 (2017) (“*NPRM*”).

information that is needed ... to perform its regulatory functions,”³ but that assessment has proven inaccurate.

A. FCC Form 325 Has Outlived Its Regulatory Purpose.

The Commission developed Form 325 in the late 1960’s and adopted it as an annual filing in 1971 – during the infancy of cable television.⁴ The data collection allowed the Commission to track consumer access to cable TV, the growth in programming offered by pay TV operators, and, later on, the transition from analog to digital cable systems.⁵ Along the way, the Commission used the data to adopt the current regulatory regime for cable systems and other Multichannel Video Programming Distributors (MVPDs) and to report on various aspects of the cable industry.⁶

Form 325 no longer serves as a useful source to inform the Commission’s regulatory needs. The Commission’s cable regulations are relatively stable, although some rules are certainly due for retirement.⁷ Most major cable systems have transitioned to digital technology.⁸ And, as the Commission recognizes, consumer video viewing habits are changing rapidly. MVPD subscribership is declining while consumers are rapidly moving toward viewing video programming online.⁹ The Form 325 data no longer reflect what video choices consumers have

³ See *1998 Biennial Regulatory Review – “Annual Report of Cable Television Systems” Form 325*, filed pursuant to Section 76.403 of the Commission’s Rules, Report and Order, 14 FCC Rcd 12,266, ¶ 11 (1999) (“1999 Form 325 Order”).

⁴ See *id.* ¶ 3.

⁵ See *id.*

⁶ See *id.* ¶¶ 19-24.

⁷ See Comments of Verizon, *Modernization of Media Regulation Initiative*, MB Docket No. 17-105 (filed July 5, 2017).

⁸ See *Annual Assessment of the Status of Competition in the Market for Delivery of Video Programming*, Eighteenth Report, 32 FCC Rcd 568, ¶ 62 (2017) (“*Eighteenth Report*”) (relying on SNL Kagan reports).

⁹ See *id.* ¶ 19 (declining cable subscribership), ¶¶ 131-32 (increased viewing of online video services).

available, what equipment consumers use to watch video programming, where they watch MVPD programming, and what technology or programming video providers are deploying to attract consumers.

In this environment, forcing providers to submit data such as the length of fiber in use or the channel capacity of the system serves no regulatory purpose. Moreover, information such as cable subscribership is readily available from third-party publications.¹⁰ And MVPDs post their programming lineups online to attract consumers. In any event, as discussed further below, the Commission rarely relies on Form 325 data, demonstrating that this information collection has outlived its usefulness.

When the Commission streamlined Form 325 two decades ago, then Commissioners Harold Furchtgott-Roth and Michael Powell both dissented and recommended its elimination.¹¹ They noted that there is no statutory requirement for the data collection, the information collected is available from public sources, and, if the Commission needs such information, it can collect it in the context of specific proceedings. These points are just as true today as in 1999. Commissioners Furchtgott-Roth and Powell perceptively recognized that the need for this data collection was non-existent, and the Commission's limited use of this data since 1999 has proven them correct. The Commission should therefore eliminate Form 325, and stop imposing the burden of this data collection on the cable industry.

B. The Commission Rarely Relies on Form 325 and so Should Eliminate the Data Collection.

Form 325 collects five specific categories of information about cable systems. But for most of these data, the Commission fails to use or rely on the information.

¹⁰ See *id.* ¶¶ 18-20 (relying on SNL Kagan data for MVPD subscribership statistics).

¹¹ See *1999 Form 325 Order* at Dissenting Statement of Commissioner Harold Furchtgott-Roth & Dissenting Statement of Commissioner Michael Powell.

(1) *Subscribership Statistics.* The Commission notes that it has relied on data for pay TV subscribers and “homes passed” in its annual reports on video competition.¹² But in its last two reports, the Commission has cited exclusively to third-party sources, such as SNL Kagan, to identify the number of subscribers to cable services and the number of homes passed by cable systems.¹³ Indeed, neither of the last two video competition reports mentions Form 325. The Commission can prepare and publish its reports on video competition without relying on the Form 325 submissions.

The Commission also notes that it has used Form 325 subscriber data in its annual reports on cable industry prices (collected on FCC Form 333) and in reports to Congress on specific topics.¹⁴ But there is no need to require submission of Form 325 for these purposes. As indicated above, third-party sources provide this information. And, if the Commission needs these data or a subset for its pricing survey, it can request companies submitting Form 333 to include the information. Similarly, for reports to Congress, the Commission typically asks for comment on the specific topic, and seeks whatever information it may need through a Public Notice.¹⁵ An annual collection on Form 325 is unnecessary.

Moreover, this section of Form 325 collects information on cable modem and telephony subscribers, which, when applicable, is also collected on Form 477, “Local Telephone Competition and Broadband Reporting.” As the Commission has done and is considering in

¹² See *NPRM* ¶ 7.

¹³ See *Eighteenth Report* ¶¶ 2-5, 18-20, 68; *Annual Assessment of the Status of Competition in the Market for Delivery of Video Programming*, Seventeenth Report, 31 FCC Rcd 4472, ¶¶ 17-19, 73 (2016).

¹⁴ See *NPRM* ¶ 7.

¹⁵ See, e.g., *Media Bureau Seeks Comment for Report Required by the Satellite Television Extension and Localism Act on In-State Broadcast Programming*, Public Notice, 25 FCC Rcd 16,220 (2010).

other contexts, it should act quickly to eliminate such unnecessary and duplicative data collections.¹⁶

(2) *Consumer Equipment.* Form 325 requests submission of the number of leased set-top boxes and cable modems a provider has deployed. The *NPRM* identifies no rulemaking or report in which the Commission has relied on Form 325 data for these numbers. Instead, it asks whether this information could be useful to evaluate the commercial availability to consumers of set-top boxes from sources other than MVPDs, pursuant to the Commission's obligation to promote the availability of such equipment in Section 629 of the Communications Act.¹⁷

Section 629 directs the Commission to adopt regulations to assure that consumers can access MVPD services through equipment "from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor."¹⁸ But Form 325 only collects information on leased set-top boxes, not on the other options available to consumers to view MVPD programming, such as third-party equipment or MVPD apps.

In any event, the Commission recently acknowledged that it has other means to collect information that may be useful in any efforts needed to fulfill the goals of Section 629.¹⁹ The

¹⁶ See Section 43.62 *Reporting Requirements for U.S. Providers of International Services*; 2016 *Biennial Review of Telecommunications Regulations*, Report and Order, 32 FCC Rcd 8115 (2017) (eliminating the annual international Traffic and Revenue Reports and streamlining the Circuit Capacity Reports for international services); *Modernizing the FCC Form 477 Data Program*, Further Notice of Proposed Rulemaking, 32 FCC Rcd 6329 (2017) (seeking comment on reducing burdens on Form 477 filers by streamlining the data collection); Comments of Verizon, *Modernizing the FCC Form 477 Data Program*, WC Docket No. 11-10 (filed Oct. 10, 2017).

¹⁷ See *NPRM* ¶ 16; 47 U.S.C. § 549.

¹⁸ 47 U.S.C. § 549(a).

¹⁹ See Letter from Michelle Carey, Chief, Media Bureau, FCC, to Mark Goldstein, Director, Physical Infrastructure Issues, Government Accountability Office, U.S. Government Accountability Office Report to Congressional Requesters, *Video Programming: FCC Should*

Commission explained that it will collect such information through comments on its annual video competition reports and analyze the data in future video competition reports.²⁰ The Form 325 data collection is not useful or necessary for this purpose.

(3) *Cable System Physical Plant.* The Commission offers no examples of proceedings or reports in which it has used the information on the type of delivery system, the length of fiber installed, the number of fiber optic nodes, and/or the relation of nodes to subscribers. The *NPRM* asks whether this information would be helpful in determining whether a provider can comply with Commission regulations.²¹ Given that the Commission apparently has not used this information for that – or any other – purpose, the answer seems irrelevant. A provider could offer specific information of this nature to seek an exemption or waiver from a rule. But that hardly justifies collection of the information on an annual basis from the cable industry.

(4) *System Capacity.* Similarly, the *NPRM* offers no evidence of the relevance or need for data on frequency and signal distribution, including downstream and upstream system capacity. The Commission asks whether it could use this information to develop regulatory policies.²² But again the fact that there might be *some* regulatory use for these data – unrecognized for the past 20 years – does not justify an annual collection.

Conduct Additional Analysis to Evaluate Need for Set-Top Box Regulation, at App. II, GAO-17-785 (Sept. 2017).

²⁰ See *Media Bureau Seeks Comment on the Status of Competition in the Market for the Delivery of Video Programming*, Public Notice, 32 FCC Rcd 6654 (2017) (seeking information on market conditions and regulations affecting competition in the video marketplace). The Commission annually seeks comments on the status of competition in the market for delivery of video programming, and so, elimination of Form 325 would not “hinder” its ability to evaluate the state of competition among cable systems. See *NPRM* ¶ 7.

²¹ See *NPRM* ¶ 17.

²² See *id.* ¶ 18.

(5) *Channel Line-Ups*. The *NPRM* acknowledges that channel line-ups are available on providers' websites, and from third-party sources, and so there is no need for continued collection of this information.²³ This collection is entirely unnecessary and – because it is collected only once a year – more likely to be out-of-date than information available from other sources.

II. FORM 325 IMPOSES AN UNNECESSARY REGULATORY BURDEN ON PROVIDERS.

Give the lack of use of Form 325 data, the burden of completing Form 325 for providers now clearly outweighs any regulatory benefit. While the Commission estimates that it will take two (2) hours to complete the form, in Verizon's experience the time needed for data collection and filing is closer to 12 hours for each PSID (Physical System Identification Number).²⁴ In Verizon's case, it must complete the form for 12 PSIDs, making the total annual burden 144 hours, not just two.²⁵

As explained above, this burden on providers is not offset by any benefit to the Commission or consumers. The lack of use of Form 325 data indicates that the form is truly a “relic of a bygone era” of the video market.²⁶ It is therefore time for the Commission to retire the Form 325 data collection.

²³ See *id.* ¶ 19; see Declaration of Bradley W. Wright, ¶ 5 (attached) (“*Wright Declaration*”).

²⁴ Compare “Annual Report of Cable Television Systems, FCC Form 325,” “Information Collection Being Reviewed by the Federal Communications Commission under Delegated Authority,” OMB 3060-0061, Notice and Request for Comments, 81 Fed. Reg. 73398 (Oct. 25, 2016) with *Wright Declaration*, ¶¶ 3-4.

²⁵ *Wright Declaration* ¶¶ 3-4.

²⁶ See *1999 Form 325 Order* ¶ 6 (citing NCTA's comment that Form 325 in 1999 was a “relic of a bygone era”).

III. CONCLUSION.

For the reasons set forth above, the Commission should eliminate the FCC Form 325 data collection in its entirety.

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Respectfully submitted,

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DECLARATION

1. My name is Bradley W. Wright. I am employed by Verizon Communications as a Director for Compliance with the Fios TV legal team. My responsibilities include completing and filing the Form 325: "Annual Report of Cable Television Systems" for all Fios PSIDs.
2. Completing the Form 325 involves researching and compiling detailed information on Fios TV subscribers, leased set top boxes, physical plant, system capacity, and channel line-ups. This information must be filed electronically over the FCC's Cable Operations and Licensing System (COALS).
3. Preparing and filing Form 325 for one Fios PSID requires approximately 12 man-hours to complete the necessary data collection and file the information in COALS. There are 12 separate Fios cable systems with PSIDs. Completing the Form 325 thus requires about 144 hours.
4. The FCC estimates completing Form 325 will take an average of two (2) hours for each PSID. Based on my experience, this estimate substantially understates the time required to prepare and file Form 325.
5. Much of the information included on Form 325 is available from industry reports and public sources. For example, SNL Kagan compiles and publishes data and statistics on various aspects of the cable industry and cable companies. Verizon financial and investor reports include information on Fios subscribers. Also, the Verizon Fios website and third-party guides include information on Fios channel line-ups.
6. I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 6, 2018


