

**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  
NCTA – THE INTERNET & TELEVISION ASSOCIATION**

February 15, 2018

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NCTA – The Internet & Television Association (“NCTA”)<sup>1</sup> submits these comments in response to the *Notice of Proposed Rulemaking* in the above-captioned docket that proposes to modernize the Commission’s rules governing certain mandatory notifications applicable to cable operators.<sup>2</sup>

**INTRODUCTION AND SUMMARY**

Last year, the Commission adopted a declaratory ruling that allows cable operators to send certain FCC-mandated notices by e-mail to a verified customer e-mail address, rather than through the mail. Since then, the Commission has continued its move away from mandating paper filings.<sup>3</sup> As part of the Media Modernization initiative, this proceeding proposes to expand

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<sup>1</sup> NCTA is the principal trade association for the U.S. cable industry, representing cable operators serving approximately 85 percent of the nation’s cable television households and more than 200 cable program networks. The cable industry is the nation’s largest provider of broadband service after investing more than \$275 billion over the last two decades to deploy and continually upgrade hybrid fiber-coaxial cable (HFC) networks and other infrastructure. Cable companies also provide state-of-the-art competitive voice service to more than 30 million customers.

<sup>2</sup> See *In re Electronic Delivery of MVPD Communications, Modernization of Media Regulation Initiative*, Notice of Proposed Rulemaking, 32 FCC Rcd 10755 (2017) (“*Notice*”).

<sup>3</sup> See, e.g., *In re Amendment of Section 73.624(g) of the Commission’s Rules Regarding Submission of FCC Form 2100, Schedule G, Used to Report TV Stations’ Ancillary or Supplementary Services, Amendment of Section 73.3580 of the Commission’s Rules Regarding Public Notice of the Filing of Broadcast Applications, Modernization of Media Regulation Initiative, Revision of the Public Notice Requirements of Section 73.3580*,

the circumstances in which cable operators can use electronic means to send additional required notices to customers.

This *Notice* is another step in the right direction. We agree that cable operators and their customers should not be forced to incur the real costs – and avoidable environmental impacts – of mandatory paper notices where the information can be provided more effectively by electronic means. Therefore, we support the Commission’s tentative conclusion that operators should be allowed to use verified e-mail for other notice requirements. But the Commission should not stop there. To realize the benefits of this modernization fully and avoid locking the cable industry into a single method of communicating electronically with customers, the Commission should allow operators to use alternative methods of electronic communication that are reasonably intended to reach individual customers. Technology continues to evolve, changing how businesses communicate with customers over time. Cable’s competitors can provide notice to their customers in innovative ways that best meet customer needs by responding quickly and adapting to changing demands. The new notice rules should be flexible enough to permit operators to respond in the same fashion to better serve customers.

Furthermore, while it may have made sense twenty-five years ago to require cable operators to send individual notices in paper bills to customers on a government-established timetable, today consumers have different expectations about how to obtain information about the services they receive. Many customers prefer the efficiency of accessing this information online on cable operators’ websites, making unnecessary stringent rules about the need for operators to proactively send this information in the form of a mandatory notice. In lieu of

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Notice of Proposed Rulemaking, 32 FCC Rcd 8203 (2017) (proposing to modernize certain broadcaster written notice requirements).

providing bill inserts or additional electronic notices, the Commission should grant operators more flexibility to point customers to the operator's websites where customers can easily locate the most current, customized information.

The Commission should take other steps to streamline and update notice procedures and reduce unnecessary requirements. For example, as the Commission moves toward allowing greater use of electronic communications, NCTA-member cable operators would also not oppose changes to the must carry/retransmission consent election notifications that would simplify the process. The Commission should eliminate certain other outdated notice requirements relating to equipment that is no longer widely used and rate regulations that are no longer relevant.

#### **I. OPERATORS SHOULD BE PERMITTED TO SEND NOTICES TO CUSTOMERS VIA E-MAIL.**

The Commission recently issued a declaratory ruling that permits cable operators to provide the FCC-mandated initial and annual notices to a customer's "verified" e-mail address, so long as the electronic notice provides a mechanism for customers to choose to continue to receive paper notices instead.<sup>4</sup> In so doing, the Commission recognized that "the benefits of permitting e-mail delivery include the positive environmental aspects of saving substantial amounts of paper annually, increased efficiency and enabling customers to more readily access accurate information regarding their service options."<sup>5</sup> These efficiencies and benefits should extend to other mandatory customer notices.

Specifically, we agree with the *Notice's* tentative conclusion that certain additional notices need not be sent in paper form.<sup>6</sup> These notices include, among other things, those that

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<sup>4</sup> See *In re National Cable & Telecommunications Association and American Cable Association; Petition for Declaratory Ruling*, Declaratory Ruling, 32 FCC Rcd 5269 (2017) (pertaining to notices required under 47 C.F.R. § 76.1602(b)) ("*Declaratory Ruling*").

<sup>5</sup> *Id.* ¶ 6.

<sup>6</sup> See *Notice* ¶ 6 (proposing to "adopt a rule that would allow various types of generic written information from

pertain to rate and service changes under Section 76.1603 and privacy notices.<sup>7</sup> Sending a paper copy of these notices in the mail has the same environmental impacts as was the case with the Section 76.1602 annual notice. Giving cable operators the flexibility to use electronic means to communicate with customers will result in similar benefits, including allowing cable operators to more effectively tailor notices to specific customer preferences.

There is no policy reason to erect new barriers to providing these additional notices electronically in the form of an “opt-in” requirement.<sup>8</sup> The Commission previously rejected this approach, finding that “petitioners argue persuasively that it would not be workable for cable operators to attempt to receive permission from each individual customer prior to initiating electronic delivery . . . .”<sup>9</sup> As we showed, requiring cable operators to affirmatively obtain “opt-in” permission from tens of millions of customers before allowing them to provide this information electronically would defeat the purpose of the modernization effort.<sup>10</sup> Cable operators already are permitted to send the specified notices via electronic means reasonably calculated to reach individual customers if they have affirmative consent.<sup>11</sup> Requiring an opt-in regime for certain electronic notices and different treatment for others would unnecessarily inject confusion and complications into what otherwise is intended to be an effort to simplify,

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cable operators to subscribers to be delivered electronically, if they are sent to a verified e-mail address and the cable operator complies with other consumer safeguards”).

<sup>7</sup> See Notice ¶¶ 6, 18. Section 76.1603(e) already allows operators to provide notice of service and rate changes to subscribers “using any reasonable written means at [the operator’s] sole discretion.” 47 C.F.R. § 76.1603(e). The Commission should evaluate whether to take steps to clarify the timing of any such notice required under this section in order to reduce the number of confusing and unnecessary notices.

<sup>8</sup> See Notice ¶¶ 6, 13 (seeking comment on whether an opt-in approach is needed).

<sup>9</sup> Declaratory Order ¶ 10, n.40.

<sup>10</sup> See Letter from Rick Chesson *et al.*, NCTA and Mary Lovejoy *et al.*, ACA, to Marlene H. Dortch, FCC at 2-3 (July 15, 2016) (filed in MB Dkt. No. 16-126).

<sup>11</sup> *Id.* at 3 (citing 15 U.S.C. § 7001(c)(1), which permits entities to obtain opt-in consent as one potential avenue to distribute ‘written’ notices in electronic form).

streamline, and modernize the process.

The Commission has ample authority to interpret its rules to authorize electronic, rather than paper, notices. The Commission already determined that Section 632(b) “grants the Commission authority to establish the means by which annual notices may be delivered to subscribers and to specify consumer protections with regard to the delivery of the notices.”<sup>12</sup> Additionally, Congress already established that a cable operator may provide notices to subscribers pursuant to Section 632(c) – such as those relating to service and rate changes – “using any reasonable written means at its sole discretion.”<sup>13</sup> Thus, nothing in the Cable Act suggests any reason to restrict operator flexibility as to providing electronic written notice.

For similar reasons, we agree with the Commission’s tentative conclusion that “subscriber privacy notifications required pursuant to Section 631, 338(i), and 653 of the Act may be delivered electronically to a verified e-mail address, subject to the consumer safeguards [of providing an option to continue to receive a paper copy].”<sup>14</sup> Section 631 statutorily mandates that “at the time of entering into an agreement to provide any cable service or other service to a subscriber and at least once a year thereafter, a cable operator shall provide notice *in the form of a separate written statement* to such subscriber which clearly and conspicuously informs the subscriber” about the collection and disclosure of certain information.<sup>15</sup> If an e-mail is considered “written” notice for purposes of Section 632 of the Act, nothing about Section 631 suggests that the same interpretation should not apply to annual privacy notices. So long as the e-mail is sent to a customer’s verified e-mail address, and the e-mail “clearly and conspicuously”

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<sup>12</sup> *Declaratory Ruling* ¶ 7.

<sup>13</sup> Cable Act § 632(c), 47 U.S.C. § 552(c).

<sup>14</sup> *Notice* ¶ 18.

<sup>15</sup> Cable Act § 631(a), 47 U.S.C. § 551(a) (emphasis supplied).

informs the customer of the necessary information, it should make no difference for these purposes whether or not it is delivered on paper or electronically.

## **II. THE COMMISSION SHOULD ALLOW OPERATORS TO PROVIDE CERTAIN REQUIRED INFORMATION TO CUSTOMERS USING ADDITIONAL ELECTRONIC MEANS.**

As our Media Modernization comments explained, permitting electronic delivery of certain notices is an important first step in reducing compliance burdens as well as better reflecting consumers' communications preferences.<sup>16</sup> We agree with the tentative conclusions regarding the use of e-mail to comply with notice requirements. However, we also believe the Commission can and should do more to further update these rules by eliminating some lingering unnecessary burdens, paperwork, and costs while upholding their purpose of informing customers of important information about their cable service.

*First*, the Commission should allow operators to use additional means of directly communicating electronically with customers. Millions of cable customers today prefer, and are accustomed to, interacting with their cable operators in a variety of ways beyond telephone calls and e-mails.<sup>17</sup>

As Comcast explained in its comments in support of the *Declaratory Ruling*:

[e]lectronic communications between businesses and customers are standard practice in 2016, and consumers increasingly prefer electronic communications. Comcast communicates electronically with millions of its customers to disseminate and receive a wide array of information. Comcast sends monthly bills, collects payments, communicates information about its service offerings and

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<sup>16</sup> See NCTA Comments, filed in MB Dkt. Nos. 17-105, 07-42, 02-144, & GN Dkt. No. 17-142, at 5 (filed July 5, 2017) ("*NCTA Media Modernization Comments*").

<sup>17</sup> Various cable operators are utilizing multiple platforms (such as website live-chats, e-mail, social media, phone, and online community forums) to provide customer support. See, e.g. Cox Communications, Inc., *Contact Us*, at <https://www.cox.com/residential/contactus.html> (last visited Feb. 14, 2018); Optimum, *Support – Contact Us*, at <https://www.optimum.net/support/contact-us/> (last visited Feb. 14, 2018).



outages, and allows customers to upgrade their service and make and confirm service appointments online and through the XFINITY My Account app.<sup>18</sup>

These means of communicating with customers will continue to evolve over time just as customer preferences will evolve.<sup>19</sup> Cable operators should not be locked into a single mode of electronic communications – through e-mail delivery<sup>20</sup> – when these changes are foreseeable.

In that respect, the Commission should take this opportunity to expand the permissible scope of electronic communications adopted in the *Declaratory Ruling*.<sup>21</sup> Any lingering concerns the Commission may have about which forms of electronic notice are “reasonably calculated” to reach customers should be allayed by the continued general acceptance of other routine forms of electronic communications by consumers, and customers’ use of these methods to communicate with their cable operator.

Operators are seeking other ways to reach customers as well, as customers move on to other communications platforms. The Commission should allow industry the flexibility to serve its customers’ preferences as they evolve. To that end, the rules should allow operators to provide required notices through e-mail or other electronic means to a verified customer e-mail address or verified phone number or via other electronic means reasonably accessible to the customer to communicate with the cable operator. This includes, for example, SMS texting and other forms of messaging.<sup>22</sup>

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<sup>18</sup> Comcast Comments, filed in MB Dkt. No. 16-126, at 2 (May 26, 2016).

<sup>19</sup> See, e.g., Micah Solomon, *Here’s How The New Wave Of Messaging Has Transformed Customer Service*, Forbes, Jan. 18, 2017, available at <https://www.forbes.com/sites/micahsolomon/2017/01/18/heres-how-texting-is-transforming-customer-service-and-customer-support/#67f6fa943681> (noting that the communication habits of Millennials are pushing companies to move customer support services to their Twitter, Instagram, YouTube, and Facebook accounts so they can respond to and resolve issues using the messaging functionality already built into these platforms).

<sup>20</sup> See Notice, Appendix A, proposed Section 76.1600(a) (referencing e-mail delivery).

<sup>21</sup> See *Declaratory Ruling* ¶ 11.

<sup>22</sup> See, e.g., Twilio, *How Consumers Use Messaging Today*, Apr. 2017, at <https://www.twilio.com/learn/commerce-communications/how-consumers-use-messaging> (last visited Feb. 14,

*Second*, the Commission should take this opportunity to extend the benefits of its approach to the use of website links as an acceptable means of informing customers. In the *Declaratory Ruling*, the Commission found “reasonable” the “inclusion of a website link to the notice itself . . . when annual notices are delivered via e-mail.”<sup>23</sup> However, the *Declaratory Ruling* did not allow operators to include in a customer’s monthly bill, in lieu of a paper insert, a “link to a publicly available website where the notice applicable to a particular customer may be found . . . .”<sup>24</sup> It surmised that “placing a link inside a bill could have the effect of obscuring rather than highlighting that the annual notices are not part of the regular bill.”<sup>25</sup>

We agree with the *Notice* that there are ways to mitigate these concerns “by putting some consumer safeguards or additional requirements in place . . . .”<sup>26</sup> The rules should allow operators to provide customers with a company website address or link highlighted in a bill, or on a paper or electronic notice, that directs customers to where they can find additional information required by Subpart T.

For example, operators should be permitted to highlight within a paper or electronic bill a link or website address in a way that makes clear that the website contains important information that is separate from the bill itself. Another approach should give operators choosing to provide paper notices the flexibility to include in that notice a web address where additional information required by the annual notice could be found, such as channel line-ups, pricing, and other information that may change over the course of the year. Moreover, there is no reason to require

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2018).

<sup>23</sup> *Declaratory Ruling* ¶ 11, n.46.

<sup>24</sup> *Id.* ¶ 11.

<sup>25</sup> *Id.*

<sup>26</sup> *Notice* ¶ 16.

cable operators to provide a paper “welcome kit” if customers sign up for services online or on the telephone. Such customers can more easily and efficiently access the information they need online, including through their cable providers’ app. And they can access that information when they have time to look at it, and without having to worry about where to maintain the physical paper to use for future reference. This flexibility would reduce the amount of paper that customers receive and must maintain for future reference and, as is the case with e-mail notices that contain a website address, “will give customers the flexibility to choose when to review the annual notices.”<sup>27</sup>

Much of the information required under Sections 76.1602(b) and 76.1603(b) – such as policies, services, programming, channel line-ups, and prices – is well-suited to posting on a website. Products and services change over time, sometimes frequently, and customers can obtain this information at a time of their own choosing, through regularly and timely updated materials posted online. Allowing this information to be accessed electronically means that customers can have access to more updated annual notice material more quickly than would be the case for paper mailings. Operators can update these documents without the cost and delay that otherwise would be required to produce printed copies for those customers without a verified e-mail address. Rate cards and channel line-ups, in particular, are lengthy documents that can be more customized and simplified if provided online.

It would not be practical for operators to include this material on the initial screen of the operator’s website,<sup>28</sup> as much of this information is geographically specific. However, customers

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<sup>27</sup> *Declaratory Order* ¶ 11, n.46.

<sup>28</sup> *See Notice* ¶ 17 (seeking comment on whether the Commission should “require that an electronic link to written material posted on a cable operator’s website be clearly labeled “Important Subscriber Notices” and be prominently displayed on the initial screen of the cable operator’s website”).

can simply input basic information (such as their zip code) and be directed to the correct page on an operator's website that has information pertinent to their specific location. Moreover, there is no need for the Commission to prescribe the look and feel of the notice provision of operators' websites as customers will be provided the means to quickly access the required information.

Of course, not all customers have access to the Internet and some may prefer to continue to receive this information on paper. Accordingly, if the Commission should permit operators to include on paper bills or paper notices the website address where this additional information can be found online, operators also would include a telephone number that customers could call if they desire to receive a paper copy of this information.

### **III. THE COMMISSION SHOULD PERMIT RESPONSES TO CONSUMERS BY E-MAIL.**

We strongly support the Commission's proposal to allow cable operators to respond to consumer requests or billing disputes by e-mail (unless the consumer expressly specifies a different preferred delivery method).<sup>29</sup> In addition, as NCTA has explained, cable operators should also have the option of using e-mail to respond when the consumer has provided an e-mail address on complaint submissions via the Commission's Consumer Help Center website (unless the consumer expressly specifies a different preferred delivery method).<sup>30</sup> Indeed, for over a decade, the Commission has allowed providers to send responses to informal complaints *to the Commission* by e-mail.<sup>31</sup> The ability to do the same in responding *to consumers* is long

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<sup>29</sup> *Id.* ¶ 19 & Appendix A, proposed § 76.1600(f) ("In this Subpart T, any required written response to a subscriber or customer may be delivered by e-mail, if the consumer used e-mail to make the request or complaint or if the consumer specifies e-mail as the preferred delivery method in the request or complaint.").

<sup>30</sup> *See NCTA Media Modernization Comments* at 10.

<sup>31</sup> *See* FCC, Public Notice, *Consumer & Governmental Affairs Bureau Reminds Common Carriers of Their Obligations to Timely Respond to Informal Complaints*, 22 FCC Rcd 4444 at 2 (2007). In addition, as described in the *Notice*, the Commission already permits common carriers to respond to formal complaints by e-mail. *See Notice* ¶ 20 & n.67.

overdue. Consumers who contact cable operators by electronic means or provide an e-mail address in such communications have an expectation that they will receive a response via e-mail. Requiring paper responses by mail injects unnecessary delay and frustration into the process for resolving issues and responding quickly to consumers. As suggested in the *Notice*, adoption of the proposal would allow cable operators to respond to consumer requests and complaints more efficiently and expeditiously, and would be consistent with consumer expectations.<sup>32</sup>

#### **IV. CERTAIN OTHER SUBPART T REQUIREMENTS SHOULD BE ELIMINATED.**

The *Notice* proposes to eliminate certain other provisions that have long outlived their usefulness. First, we agree with the proposal to eliminate Section 76.1621's equipment compatibility obligation.<sup>33</sup> Section 76.1621 requires operators to provide special equipment to be used with VCRs and a television set, or to support picture-in-picture functionality. Given today's digital technologies, the Commission "tentatively conclude[s] that it is no longer necessary to promote the 'special equipment that will enable the simultaneous reception of multiple signals' referred to in the rules . . . ."<sup>34</sup> At the time this rule was adopted, more than 100 million households had VCRs, and more than 2 million units were sold in 1994 alone.<sup>35</sup> Today, VCRs are no longer being manufactured.<sup>36</sup> This rule no longer serves any legitimate purpose and should be eliminated.

Section 624A does not require continuation of a requirement that is a relic of technology no longer in customers' homes in any meaningful way.<sup>37</sup> Congress granted the Commission

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<sup>32</sup> See *Notice* ¶ 21.

<sup>33</sup> See *id.* ¶ 22.

<sup>34</sup> *Id.*

<sup>35</sup> See Warren Publishing, Inc., *Television & Cable Factbook – Services*, at I-3 (1997).

<sup>36</sup> See, e.g., Aaron Pressman, *End of an Era as Last VCR Maker Ends Production*, July 21, 2016, at <http://fortune.com/2016/07/21/last-video-cassette-recorder-maker/>.

<sup>37</sup> See generally *EchoStar Satellite L.L.C. v. FCC*, 704 F.3d 992, at n.4 (D.C. Cir. 2013) ("We set aside for now

leeway to adopt those regulations “as are necessary,”<sup>38</sup> and it surely is no longer “necessary” to impose a requirement that has no relevance to today’s consumer. In addition, Congress anticipated that technology would change over time and directed the Commission to “periodically review and, if necessary, modify the regulations issued pursuant to this section . . . to reflect improvements and changes in cable systems, television receivers, video cassette recorders, and similar technology.”<sup>39</sup> The Commission’s modernization effort should include removing this outdated obligation.

For similar reasons, rather than stretch for ways to “update” or “modernize” the obligation to educate consumers on VCRs and picture-in-picture compatibility, the Commission should eliminate the requirement altogether.<sup>40</sup> The Commission’s highly prescriptive notice rules are not necessary in today’s competitive marketplace. Instead, to the extent any information on equipment that is still in widespread use today, *e.g.*, remote controls, is relevant or useful to customers, cable operators could include this information on websites so those customers interested in the information would be able to obtain it easily. Cable operators have every incentive in this competitive marketplace to provide their customers with the information they need to obtain service using a variety of different devices. No continued regulation is “necessary” in this area.

NCTA’s Media Modernization comments identified other provisions in Part T that should be eliminated. Specifically, several notification requirements are duplicative of other notice

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whether §624A’s reference to ‘video cassette recorders,’ now a largely antiquated technology, is adequate to sustain the FCC’s purported interest in the ability of consumers to retain ‘the full benefit of . . . the functionality’ of their recording devices.”).

<sup>38</sup> Cable Act § 624A(c)(2), 47 U.S.C. § 544a(c)(2).

<sup>39</sup> Cable Act § 624A(d), 47 U.S.C. § 544a(d).

<sup>40</sup> Notice ¶ 23.

provisions and are vestiges of the earliest days of the cable rate regulation regime, including Sections 76.1603(c); 76.1603(d); 76.1604; and 76.1618.<sup>41</sup> These rules make no sense in today's competitive environment, especially given that the Commission no longer can regulate rates for the expanded basic tier and "effective competition" has been presumed to exist nationwide.

## **V. BROADCASTER ELECTION NOTICES CAN BE STREAMLINED AND SIMPLIFIED.**

Currently, the Commission's rules require broadcasters to notify cable operators, via certified mail, return receipt requested, of their triennial election between carriage on the basis of must carry or retransmission consent on a system-by-system basis.<sup>42</sup> In an effort to reduce burdens, the *Notice* seeks comment on whether these election notices can be delivered via e-mail to simplify the election process.<sup>43</sup> NCTA agrees that, as part of allowing the greater use of electronic communications, the notification process can and should be streamlined.

To that end, the Commission should no longer require broadcasters to send system-by-system notices via certified mail, return receipt requested. Instead, to help reduce costs, the rules should permit broadcasters to send electronic election notices. To further streamline the process, rather than requiring notice on a system-by-system basis, broadcasters could send one e-mail that

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<sup>41</sup> See *NCTA Media Modernization Comments* at 22-23.

<sup>42</sup> 47 C.F.R. § 76.64(f). As the *Notice* acknowledges, "significant legal and financial consequences arise from the failure to make a timely election notice." *Notice* ¶ 26. The current rules provide that for purposes of cable carriage, a station that fails to make an election is deemed to have elected must carry. See § 76.64(f)(3). The Commission deemed must-carry to be the default because "must-carry can be self-executing; *i.e.*, cable operators can, if necessary, proceed to retransmit a local television signal without interaction with the broadcaster." *In re Implementation of the Cable Television Consumer Protection and Competition Act of 1992 Broadcast Signal Carriage Issues et al.*, Report & Order, 8 FCC Rcd 2965 ¶ 159 (1993). The Commission should maintain this default approach. An operator that fails to receive notice that a broadcaster has elected retransmission consent could face legal consequences if it continues to retransmit that station to its customers. The Act requires that cable operators must receive consent from a broadcaster to retransmit its signal. See 47 U.S.C. § 325(b)(1) (requiring "express authority"); see also 47 C.F.R. § 76.64(a)(same).

<sup>43</sup> *Notice* ¶ 26. The *Notice* makes clear that "in this docket, we are focused exclusively on notice issues," and the Commission in this proceeding is not looking for broader changes to the must carry/retransmission consent system. *Id.* ¶ 25, n.88.

identifies the systems for which it is making elections to a single e-mail address for each cable operator. NCTA-member cable operators would be willing to identify an e-mail address that would serve as a single point of contact for all cable systems served by that operator, by listing the same e-mail address on an easily-accessible landing page for each FCC-hosted cable system public file maintained online by that cable operator.

To ensure that the e-mail was properly received (and not caught in a spam filter, for example), notices sent to this operator-supplied e-mail address would generate an automatic return message acknowledging receipt. Since the burden would remain on broadcasters to demonstrate that they had made a valid and timely election, broadcasters would need to retain the automatic receipt to demonstrate that the election notice was sent and received.

Also, operators would post online contact information for an individual who could serve as a point of contact at the company to provide further protection to broadcasters. If a broadcaster failed to receive an automatic receipt notice from the e-mail, the broadcaster could follow up with the individual listed as the point of contact by the cable operator on the FCC-hosted public file landing page to ensure that its election notice had been properly received by the cable operator in a timely fashion. Broadcasters should also list a name and contact information in their election notice so that operators could follow up if necessary. Adopting such an approach would bring the benefits of electronic notifications to the must carry/retransmission consent election process, reducing burdens on broadcasters and cable operators alike.

The Commission should reject an alternative election model proposed by certain broadcasters, under which cable operators would have the burden of tracking down the election notices in broadcasters' public files.<sup>44</sup> This alternative would impose new, significant and

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<sup>44</sup> See, e.g., NAB Comments, filed in MB Dkt. No. 17-105, at 22-23 (filed July 5, 2017) (proposing that the Commission permit broadcasters to provide notice of their elections on a website "readily accessible to all



unnecessary burdens on the cable industry. Large cable operators may carry hundreds if not thousands of different broadcast television stations nation-wide, with different complements of stations carried by different systems. Imposing such a requirement would increase, rather than reduce, burdens contrary to the purpose of this proceeding.

### **CONCLUSION**

For the foregoing reasons, the Commission should modernize its rules governing cable operator notices to customers.

Respectfully submitted,

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