

**Before the
Federal Communications Commission
Washington, DC 20554**

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

COMMENTS OF NTCA–THE RURAL BROADBAND ASSOCIATION

I. INTRODUCTION

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these comments in response to the Notice of Proposed Rulemaking in the above-captioned proceeding.² The Notice seeks comment on the Commission’s proposal to allow cable operators to deliver written notices required by Part 76 (“Part 76 Notices”) of its Rules to subscribers via email and whether the Commission should update its Rules to allow broadcast television stations to send carriage election notices electronically instead of by certified mail. NTCA appreciates the opportunity to suggest modifications to outdated rules that have not kept pace with technological and marketplace changes. Allowing MVPDs to send notices to subscribers’ verified email addresses

¹ NTCA represents nearly 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All of NTCA’s service provider members are full service rural local exchange carriers (“RLECs”) and broadband providers. Approximately 75 percent serve as multichannel video programming distributors (“MVPDs”) using a variety of technologies in sparsely populated, high-cost rural markets.

² *Electronic Delivery of MVPD Communications*, MB Docket No. 17-317, Notice of Proposed Rulemaking, FCC 17-317 (rel. Dec. 14, 2017) (“Notice”).

will reduce the economic and administrative burden that preparing and mailing Part 76 notices imposes on small, rural MVPDs.

II. ALLOWING COMMUNICATIONS TO BE SENT VIA EMAIL BETTER UTILIZES MVPDS' RESOURCES WITHOUT HARMING SUBSCRIBERS

Small MVPDs serving high-cost rural markets face many challenges, often leading to a decline in the number of small MVPDs serving these markets.³ Given the recognized intrinsic link between video and advanced services,⁴ such challenges also adversely affect investment in, and deployment of, broadband-capable networks.⁵ Allowing MVPDs to send Part 76 Notices to a verified email address⁶ – unless a consumer opts for paper delivery instead – will provide cost savings to small, rural MVPDs by eliminating the cost of printing and postage. At a time when the cost of programming is escalating exponentially, small, rural MVPDs will benefit from the cost savings that come with not having to print and mail most, if not all, Part 76 Notices.⁷

³ For example, between 2008 and 2012, nearly 800 small MVPDs left the video distribution market. *See* Testimony of Colleen Abdoulah, Before the Senate Committee on Commerce, Science & Transportation, Jul. 24, 2012.

⁴ *See, e.g., Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket No. 05-311, Report and Order and Further Notice of Proposed Rulemaking, FCC 06-180 (rel. Mar. 5, 2007), ¶ 62.

⁵ *See, e.g., Joint Reply Comments of The Networks For Competition And Choice Coalition – Incompas, ITTA, NTCA, And Public Knowledge – And the Open Technology Institute At New America*, MB Docket No. 15-216 (fil. Jan. 14, 2016) at 13 – 18.

⁶ Notice at ¶ 6.

⁷ *See* NTCA 2016 Broadband/Internet Availability Survey Report at p. 13 (“The main barrier facing those survey respondents providing video service is access to reasonably priced programming, as cited by 98% of survey respondents.”) The full survey report is available at <https://www.ntca.org/sites/default/files/legacy/images/stories/Documents/Advocacy/SurveyReports/2016ntcabroadbandsurveyreport.pdf> (last visited Feb. 15, 2018).

Permitting Part 76 Notices to be delivered electronically will also benefit small, rural MVPDs by allowing these MVPDs to devote their limited employee resources to tasks that cannot be streamlined so easily and effectively. Many NTCA members, for instance, have fewer than 10 full-time employees. Eliminating the need to print and mail even the majority of the Part 76 Notices will be a relief to small, rural MVPDs where it is not unusual to find the same employee preparing annual MVPD notices, addressing equipment repairs, and responding to surveillance requests from law enforcement officials.

NTCA further recommends the Commission allow MVPDs to send email notices to subscribers who have a verified email address, containing a link to the MVPD's notice on its website. In addition to conserving valuable resources, this change will benefit subscribers by allowing them to access and review the notices at any time. By contrast, currently, subscribers must retain the paper copy sent to them once each year – and remember exactly where they placed it – in the event that they should ever need or want to refer back to it. Posting notices such as these on MVPDs' websites is also consistent with other federal requirements governing notices to subscribers.⁸ For any subscribers who wish to continue receiving the notices in the mail, NTCA recommends allowing such subscribers to opt out of electronic delivery either via a website link or via a telephone number. This is consistent with the action taken by the Commission in the *2017 Declaratory Ruling*.⁹ Furthermore, for the sake of clarity for both subscribers and MVPDs, NTCA recommends the Commission adopt the same requirements for

⁸ See, e.g., 37 C.F.R. § 201.38(b) (Designated Agent to receive notices of copyright infringement must be posted on a service providers website “in a location accessible to the public.”); 16 C.F.R. § 312.3(a) (Any operator of a web site or online service directed to children must provide notice on the web site or online service describing the information collected.).

⁹ *National Cable & Telecommunications Ass'n and American Cable Ass'n, Petition for Declaratory Ruling*, Declaratory Ruling, 32 FCC Rcd 5269, 5276 (2017) at ¶ 10.

all of the notices required by Part 76 of its Rules instead of having different requirements for different types of notices.

III. CONCLUSION

NTCA supports reducing administrative and economic burdens whenever possible and welcomes the Commission's thoughtful evaluation of rules and obligations that have either outlived their utility or require modification to remain relevant. Accordingly, NTCA supports the Commission's proposal to update its Rules to allow for updated communications methods, while still allowing subscribers the option of communication via regular mail. This updated method of providing written notices will save valuable, and thinly stretched, rural MVPD resources while still ensuring subscribers have sufficient information regarding the service(s) they are receiving.

Respectfully submitted,



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