

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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
)	

REPLY COMMENTS OF VERIZON¹

The record overwhelmingly confirms the benefits to both consumers and Multichannel Video Programming Distributors (MVPDs) of the Commission’s efforts to bring MVPD notice requirements into the 21st Century. Consumers prefer email correspondence to postal mail and find it more convenient to access their service providers’ websites than reading hard copies of notices. The Commission should therefore align its MVPD notice rules with consumer preferences and adopt the proposals for electronic delivery in the *NPRM*.²

Specifically, the record supports adoption of the following proposals:

- Authorize MVPDs to deliver to a subscriber’s “verified email address” routine notices, including the notices required by FCC Rule Sections 76.1601 (deletion or repositioning of broadcast signals), 76.1602 (customer service annual notice), 76.1603 (rate and service changes), 76.1604 (charges for customer service changes), 76.1618 (basic tier availability), 76.1620 (availability of signals), and Section 631 of the Communications Act (privacy policies);

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

² See *Electronic Delivery of MVPD Communications; Modernization of Media Regulation Initiative*, Notice of Proposed Rulemaking, 32 FCC Rcd 10,755 (2017) (“*NPRM*”).

- Require MVPDs to provide subscribers with an opt-out procedure to report a preference to receive a paper copy of the notice;
- Authorize MVPDs to post on their websites certain notices, such as the annual notice (Section 76.1602) and the availability of the basic tier of service (Section 76.1618);
- Allow MVPDs to communicate by email with subscribers who agree to the use of email for inquiries and complaints; and,
- Eliminate the rules and notices in Sections 76.1621 and 76.1622, as these notices concern outdated equipment and do not reflect today’s digital media services.

Additionally, consistent with the Commission’s efforts to modernize the Part 76 subscriber notice rules, the Commission should allow MVPDs to establish an email address for electronic delivery of broadcasters’ carriage election notices. Simply posting elections in a broadcaster’s online public file does not provide “notice” to MVPDs. The Commission should reject that proposal as a method for specifying carriage elections.

The Commission should also decline to change the default election from must-carry to retransmission consent in this proceeding. Rather, if it determines to consider that issue, the Commission should open a separate rulemaking to review such a significant modification to the broadcast signal carriage rules. Finally, the Commission should also open a proceeding to clarify the application of its MVPD advance notice rules in the context of program carriage negotiations.

I. THE COMMISSION SHOULD PERMIT ELECTRONIC DELIVERY OF MVPD NOTICES TO SUBSCRIBERS’ VERIFIED EMAIL ADDRESSES.

Commenters universally support the Commission’s efforts to modernize its media regulations and to relieve MVPDs and consumers of the burdens of paper delivery of routine

MVPD notices, including the privacy notice required by Section 631 of the Communications Act.³ As NCTA correctly notes, “today, consumers have different expectations about how to obtain information about the services they receive.”⁴ Consistent with consumer expectations and the benefits of reducing the burdens of paper delivery explained in the *NPRM* and comments, the Commission should allow MVPDs to deliver routine subscriber notices electronically.

The record also supports the Commission’s proposed consumer safeguards, allowing MVPDs to deliver electronic notices only to a “verified email address” for the subscriber.⁵ The Commission has already determined that delivery to a verified email address is appropriate for MVPDs’ annual notices.⁶ The same rationale applies to all routine MVPD notices to subscribers.

Commenters further confirm that the Commission should adopt an “opt-out” procedure for those subscribers who desire to receive paper copies. The alternative, an “opt-in” procedure, is unnecessary for these types of routine notices.⁷ As ACA notes, “[t]here is no reason to believe that paper notices delivered via U.S. mail make any greater impression on subscribers than electronic notices that would be subject to the proposed consumer safeguards, so there is no justification for allowing electronic delivery of certain notices only on an opt-in basis.”⁸ Using an opt-in for some notices, and an opt-out for others would simply cause consumer confusion

³ See Comments of American Cable Association (ACA), at 3-5 (Feb. 15, 2018); Comments of NCTA – The Internet & Television Association (NCTA), at 3-4 (Feb. 15, 2018); Comments of Verizon, at 2-3 (Feb. 15, 2018); Comments of NTCA – The Rural Broadband Association (NTCA), at 2-3 (Feb. 15, 2018); see also Comments of DISH Network, at 2-3 (Feb. 15, 2018) (supporting electronic delivery of privacy policy notices); Comments of AT&T, at 2-3 (Feb. 15, 2018) (supporting electronic delivery of privacy policy notices).

⁴ NCTA at 2.

⁵ See ACA at 5; NCTA at 3-4; NTCA at 3-4; Verizon at 4.

⁶ See *National Cable & Telecommunications Association and American Cable Association Petition for Declaratory Ruling*, Declaratory Ruling, 32 FCC Rcd 5269, ¶ 9 (2017).

⁷ See NCTA at 4-5; NTCA at 3-4; Verizon at 5-6; DISH at 3; AT&T at 3-4.

⁸ ACA at 5-6 (footnote omitted).

and undermine the Commission's efforts to streamline the notification procedures.⁹ The Commission should therefore rely solely on an opt-out procedure for all routine MVPD notices.

Commenters also support the Commission's proposal to allow MVPDs to post some notices on their websites, where subscribers can access them at their discretion.¹⁰ As ACA explains, "[t]oday, consumers have become accustomed to obtaining additional information about goods or services by following links that sellers provide them or by going directly to a seller's website on their own initiative."¹¹ Website posting is consistent with consumer expectations.

The record confirms that the Commission should give MVPDs flexibility in how they post notices and make that information available on their websites.¹² NCTA points out: "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."¹³

Commenters also recommend elimination of the outdated notices required by Sections 76.1621 and 76.1622.¹⁴ These notices pertain to equipment, such as video cassette recorders that were prevalent in 1992, but not in today's digital media marketplace. Rather than attempting to update these notices, the Commission should follow Section 624A of the Communications Act

⁹ See NCTA at 4-5; Verizon at 6.

¹⁰ See NCTA at 8-9; NTCA at 3; Verizon at 8-10.

¹¹ ACA at 6-7.

¹² See Verizon at 9; NCTA at 6-10.

¹³ NCTA at 2.

¹⁴ See ACA at 8-10; NCTA at 11-12; Verizon at 10-11.

and eliminate these rules “to reflect improvements and changes in cable systems, television receivers, video cassette recorders, and similar technology.”¹⁵

Finally, the record fully supports the Commission’s proposal to allow MVPDs to communicate with subscribers by email when the subscriber has indicated email is an acceptable format for such communication.¹⁶ Email is ubiquitous and consumers are accustomed to email as a routine form of communications. The Commission should modernize its rules to reflect that reality.

II. THE COMMISSION SHOULD PERMIT BROADCASTERS TO EMAIL THEIR CARRIAGE ELECTION NOTICES TO MVPDS.

Both Verizon and NCTA recommend that the Commission adopt the common sense approach of allowing broadcasters to deliver their carriage election notices to MVPDs through an email address established by each MVPD for that specific purpose.¹⁷ Nexstar Broadcasting offers a similar recommendation.¹⁸ Relying on electronic delivery would save broadcasters the expense and burden of mailing these notices – by any means – and would streamline and modernize the process consistent with the Commission’s goals in this proceeding.

The Commission should reject proposals for delivery of election notices that impose new burdens on MVPDs. For example, some broadcasters recommend that the Commission dispense with actual delivery of elections in favor of broadcasters posting the election notices in each station’s online public file.¹⁹ Obviously, this process would impose a tremendous burden on

¹⁵ 47 U.S.C. § 544a(d).

¹⁶ See ACA at 7-8; NCTA at 10-11; Verizon at 10.

¹⁷ See NCTA at 13-14; Verizon at 13-14.

¹⁸ See Comments of Nexstar Broadcasting, at 5-6 (Feb. 15, 2018); see also Comments of America’s Public Television Stations, *et al.*, at 2-4 (Feb. 15, 2018) (recommending use of electronic delivery among other delivery methods).

¹⁹ See Comments of National Association of Broadcasters (NAB), at 6-11 (Feb. 15, 2018); Joint Comments of CBS Corp., *et al.*, at 8-9 (Feb. 15, 2018); Comments of Meredith Corp., at 1 (Feb. 15, 2018).

MVPDs in searching through hundreds of public files to find the notices relevant to their networks and systems.²⁰ This proposal runs counter to the goals of this proceeding. Rather than streamlining, it imposes new obstacles to obtaining “notice” of each broadcaster’s decision.

Broadcasters also ask the Commission to modify the current rule on default carriage elections. Today, if a broadcaster does not deliver its election to a cable MVPD, the default election is must-carry.²¹ Under the broadcasters’ proposal, the default would become retransmission consent.²²

Modifying the election default entails significant changes to the Commission’s rules and policies that are beyond the scope of the *NPRM*, and the Commission noted, “[a]lthough some [broadcast] commenters proposed even broader changes to the must carry/retransmission consent system, in this docket we are focused *exclusively* on notice issues.”²³ For that reason, the Commission should decline to act on the proposal in this proceeding.

III. THE COMMISSION SHOULD CLARIFY HOW ITS “ADVANCE NOTICE” RULES APPLY DURING PROGRAM CARRIAGE NEGOTIATIONS.

As Charter explains, application of Section 76.1603(b), requiring 30-days’ advance notice to subscribers of changes in rates, programming services, or channel positions, can be unclear when a programming “change” occurs as a result of failed negotiations for carriage of an existing video service.²⁴ “Negotiations between cable operators and programmers or broadcasters usually come down to the final 30 days of an agreement – indeed, often down to the final days or hours.”²⁵ While the rule applies “if the change is within the control of the cable

²⁰ See ACA at 13; AT&T at 6-7.

²¹ See 47 C.F.R. § 76.64(f)(3).

²² See NAB at 11-12; CBS at 3-5; Meredith at 1; Nexstar at 8.

²³ *NPRM* at n. 88 (emphasis supplied).

²⁴ Comments of Charter Communications, at 1-3 (Feb. 15, 2018).

²⁵ *Id.* at 2.

operator,” the Media Bureau has found that an operator’s decision to cease carriage without notice to subscribers at the end of a contract term – after negotiations failed – likely violated the rule when the operator rejected a short term extension offered by the programmer.²⁶

Verizon agrees with Charter that the 30-day advance notice requirement generally should not apply when an MVPD and a programmer or a broadcast station are involved in carriage negotiations, even during the final 30 days of the programming agreement. Rather, if the parties cannot reach an agreement to continue carriage and the programming is removed – by either party – at the end of the contract term, the MVPD should simply be required to provide notice to subscribers as soon as possible after the programming change.²⁷ Given the potential for offers for extensions of carriage of various time periods, the Commission should open a proceeding to clarify when the rule applies in those situations.²⁸

²⁶ See *Time Warner Cable*, Order on Reconsideration, 21 FCC Rcd 9016, ¶ 17 (MB 2006) (reviewing programmer’s likelihood of success on the merits for preliminary injunction).

²⁷ See Charter at 3-4.

²⁸ The Commission stated that it would consider this issue in a subsequent proceeding. See *NPRM* at n. 70.

IV. CONCLUSION.

For the reasons set forth in Verizon's initial comments and above, the Commission should adopt electronic delivery mechanisms for MVPDs' subscriber notices, MVPDs' routine communications with consumers, and broadcasters' carriage election notices.

Respectfully submitted,

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