

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Channel Lineup Requirements)	MB Docket No. 18-92
– Sections 76.1705 and 76.1700(a)(4))	
)	
Modernization of Media Regulation Initiative)	MB Docket No. 17-105
)	
)	

**COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

I. INTRODUCTION

In its notice,¹ the Commission seeks comment on whether to eliminate rules that require cable operators maintain a copy of their current channel lineups at their local offices,² and make channel lineup information available in their online public inspection files.³ The National Association of Broadcasters (NAB)⁴ strongly supports the overall purpose of the Commission’s media modernization effort, and knows of no reason that the Commission should not eliminate the requirement that cable operators retain their channel lineups at their offices. However, the public, broadcasters and regulators need a reliable source of information on cable operators’ channel lineups—a need that will not be

¹ *Channel Lineup Requirements – Sections 76.105 and 76.1700(a)(4); Modernization of Media Regulation Initiative*, Notice of Proposed Rulemaking, MB Docket Nos. 18-92, 17-105 (Apr. 17, 2018) (Notice).

² 47 C.F.R. § 76.1705.

³ 47 C.F.R. § 76.1700(a)(4).

⁴ NAB is a nonprofit trade association that advocates on behalf of free local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

adequately met by third-party sources or information that cable operators may elect to provide on their websites. Cable operators already have significant flexibility in complying with the online public file requirement, because they may either upload their channel lineups or refer parties to a website where the channel lineup is maintained.⁵ Accordingly, NAB urges the Commission to retain its requirement that cable operators maintain an up-to-date channel lineup in their public files.

II. PUBLIC FILE CHANNEL LINEUP INFORMATION SERVES AN IMPORTANT FUNCTION

Multiple parties need a reliable source of information about cable channel lineups. The current requirement ensures that viewers can “comparison shop” among cable providers using a resource that each operator is responsible and accountable for, rather than third-party sources that may not be accurate, or websites that the operator may (or may not) choose to provide or keep up-to-date.

Significantly, broadcasters frequently rely upon channel lineup information in cable operators’ public inspection files to determine whether their stations are in fact being carried pursuant to their mandatory carriage election or retransmission consent agreement (or are perhaps being carried without broadcasters’ permission in the absence of a valid retransmission consent agreement).⁶ NAB members also frequently use channel lineups to determine whether a station is being carried on the channel position specified in a

⁵ Notice at ¶ 5, *citing Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, Report and Order, 31 FCC Rcd 526, 544-552 ¶¶ 46-66 (2016).

⁶ See, e.g., *TV Max, Inc. and Broadband Ventures Six, LLC d/b/a Wavevision, et al.*, Forfeiture Order, 26 FCC Rcd 2648 (2014)(imposing a 2.25 million dollar forfeiture on a cable operator who willfully violated the Communications Act and FCC rules by carrying six television broadcast stations’ signals without their consent for more than 365 days).

retransmission consent agreement or requested in a must carry election letter. Access to a reliable source of channel lineup information also is relevant to the Commission's adjudication of must carry, retransmission consent and channel positioning complaints.

III. EXISTING ALTERNATIVE INFORMATION SOURCES ARE INADEQUATE

Other sources of information cited by cable operators do not serve as an adequate substitute for the requirement that cable operators place their channel lineups in their public files.⁷ No other source of channel lineup information: (1) is easily accessible to the public, broadcasters, and regulators; (2) is required to be available, accurate, and up-to-date; and (3) ensures that the cable operator responsible for the lineup can be held accountable for the information provided. For example, while consumers may use electronic program guides (EPGs) to obtain channel lineup information for the cable operator they currently subscribe to, EPGs do not allow consumers to compare different operators and cannot serve as a source of information for broadcasters or regulators. While some publications and third-party websites make channel lineups available, those lineups are not legally required to be accurate or current, unlike information in a cable operator's public file. Even cable operator websites, which at least can be attributed to the operator, are not currently required to have channel lineups, and there is no legal obligation that any lineups provided be kept up-to-date.⁸

IV. CONCLUSION

NAB supports the Commission's ongoing effort to eliminate outdated media regulations. To that end, we see no reason to retain the rule that requires cable operators to

⁷ Notice at ¶ 6, *citing* Comments of NCTA in MB Docket No. 17-105 (July 5, 2017) at 27.

⁸ Notice at ¶ 8 (seeking comment on whether to require cable operators to post channel lineups on their websites rather than in their online public files).

maintain channel lineups in their local offices. However, absent another source of reliable channel lineup information that cable operators are legally bound to maintain and update, we urge the Commission to retain the existing requirement that channel lineups be placed in cable operators' online public files.

Respectfully submitted,

**NATIONAL ASSOCIATION OF
BROADCASTERS**

1771 N Street, NW
Washington, DC 20036
(202) 429-5430

A handwritten signature in dark ink, appearing to read "Rick Kaplan", with a long horizontal flourish extending to the right.

Rick Kaplan
Jerianne Timmerman
Erin Dozier

May 31, 2018