

**Communications Commission
Washington, D.C. 20554**

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

REPLY COMMENTS



The American Cable Association (“ACA”) hereby submits these reply comments in response to comments filed in the above-captioned proceeding. In the Notice of Proposed Rulemaking,¹ (“NPRM”) the Commission proposes to eliminate Section 76.1705 of its rules, which requires cable systems to maintain a current listing of their channel lineup at their local office,² and seeks comment on whether to eliminate Section 76.1700(a)(4), which requires cable systems with more than 1,000 subscribers to make

¹ *Channel Lineup Requirements – Sections 76.1705 and 76.1700(a)(4)*, Notice of Proposed Rulemaking, MB Docket Nos. 18-92 and 17-105 (rel. Apr. 17, 2018) (“NPRM”).

² 47 C.F.R. § 76.1705 (“The operator of each cable television system shall maintain at its local office a current listing of the cable television channels which that system delivers to its subscribers.”).

their channel lineups available via their online public inspection file.³ The record in this proceeding confirms that both rules are unnecessary and outdated, as cable operators have more than sufficient economic incentive to make channel lineup information available to the public. Both rules are therefore ripe for elimination as part of the Commission's broader efforts to modernize its media regulations.⁴

Nearly all commenting parties agree that it is no longer necessary for cable operators to maintain channel lineup information at their local offices,⁵ and no parties expressed concerns that cable providers operating systems with fewer than 1,000 subscribers who are not required to maintain an online public inspection file might not make their channel lineup information available if Section 76.1705 is eliminated.

³ 47 CFR § 76.1700(a)(4) (requiring that cable operators of systems with 1,000 or more subscribers maintain in the online public file "a current listing of the cable television channels which that system delivers to its subscribers in accordance with § 76.1705.").

⁴ See *Commission Launches Modernization of Media Regulation Initiative*, Public Notice, 32 FCC Rcd 4406 (2017) ("Media Modernization PN").

⁵ *Channel Lineup Requirements – Sections 76.1705 and 76.1700(a)(4)*, MB Docket No. 18-92, Comments of NCTA – The Internet and Television Association at 2 (filed May 31, 2018) ("NCTA Comments") ("[S]ection 76.1705 is a relic of the Commission's earliest cable technical standards, and has long outlived its usefulness."); Comments of the National Association of Telecommunications Officers and Advisors at 2 (filed May 29, 2018) ("NATOA Comments") ("NATOA does not disagree with the assumption that subscribers and potential subscribers are unlikely to go to a cable operator's local office to view a channel lineup that is readily available and more convenient to access online. Where cable operators provide online access to channel lineups, retention of the same information in the local office should be unnecessary."); Comments of the National Association of Broadcasters at 3-4 (filed May 31, 2018) ("NAB Comments") ("[W]e see no reason to retain the rule that requires cable operators to maintain channel lineups in their local offices."); Comments of the Alliance for Community Media at 1-2 (filed May 30, 2018) ("ACM Comments") ("We agree with the NPRM's conclusion that the requirement for every cable operator 'to maintain at its local offices a current listing of the cable television channels' serves no useful purpose[.]"). Only one commenting party – the CCTV Center for Media and Democracy – objected to the elimination of Section 76.1705. See generally, *Channel Lineup Requirements – Sections 76.1705 and 76.1700(a)(4)*, MB Docket No. 18-92, Comments of CCTV Center for Media and Democracy (filed Apr. 9, 2018) ("CCTV Comments"). CCTV asserts that cable operators should be required to provide channel lineups at local offices because "in Vermont, we cannot presume that our channels and their program details will be found on the Vermont Comcast systems." CCTV Comments at 2. The only evidence CCTV provides in support of this assertion is an unrelated dispute between Comcast and the Vermont Public Utility Commission over whether Comcast should be required to provide program schedule information regarding public, educational and governmental channels on its on-screen electronic programming guides.

A few commenters did, however, urge the Commission to continue requiring cable systems with more than 1,000 subscribers to post channel lineup information to their online public inspection file, and one commenter even went so far as to ask the Commission to impose *new* online public inspection file obligations. None of the arguments raised in favor of retaining and/or expanding Section 76.1700(a)(4) can withstand close scrutiny, however, and they should therefore be rejected.

Two parties – the National Association of Broadcasters (“NAB”) and the Alliance of Community Media (“ACM”) – seem to suggest that Section 76.1700(a)(4) remains necessary because channel lineup information that is posted to a cable operator’s online public inspection file is likely to be more accurate than information from other sources, including a cable operator’s website.⁶ This suggestion is at odds with the fact that many cable operators comply with the online public inspection file requirement by posting a link to their own website, which they are permitted to do under the rules.⁷ Still, NAB’s concern appears to be that in the absence of a legal obligation, cable operators will not make accurate channel lineup information available on their websites or through other sources.⁸ As ACA and NCTA both explained in their comments, this is simply not the case – there is no need for such a legal obligation, as cable operators have ample

⁶ NAB Comments at 3; ACM Comments at 2-3.

⁷ *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, ¶ 22 (2016).

⁸ NAB Comments at 3 (explaining that alternatives to the online public inspection file are inadequate because cable operator websites “are not currently required to have channel lineups, and there is no legal obligation that any lineups provided be kept up-to-date.”).

economic incentives to ensure that their channel lineup information is widely available and accurate.⁹

ACM's objection to eliminating the online public inspection file requirement is more pointed. ACM claims that cable operators often exclude information about PEG channels from their websites, citing the examples of Comcast and Verizon systems that serve the 20910 zip code area of Montgomery County, MD.¹⁰ Using the links to those operators' websites provided in ACM's comments, however, ACA was very easily able to find the channel locations of eight Montgomery County PEG channels on Comcast¹¹ and nine on Verizon.¹² There may be many reasons for the discrepancy between ACM's search results and ACA's, but given that the economic incentives weigh in favor of making information available, ACA urges the Commission not to give too much weight to ACM's anecdotal evidence.¹³

⁹ *Channel Lineup Requirements – Sections 76.1705 and 76.1700(a)(4)*, MB Docket No. 18-92, Comments of the American Cable Association at 2 (filed May 31, 2018) (“ACA Comments”) (“Customers know that they can choose from multiple MVPDs, and are unlikely to purchase a video product without first determining what channels are offered, and whether they include those they want. Cable operators therefore have every incentive to disseminate that information as widely as possible, knowing full well that not making this information easily available will almost certainly mean the loss of potential and existing customers.”); NCTA Comments at 4 (“All multichannel video programming distributors (MVPDs) have strong economic incentives to ensure that current and potential subscribers are well aware of the channel offerings available to them.”).

¹⁰ ACM Comments at 2-3.

¹¹ County Cable Montgomery – channels 6 and 996; Montgomery College TV – channels 10 and 1090; Montgomery Municipal Cable – channels 16 and 1084; Montgomery Community Media – channels 19, 21, and 1070; MCPS Cable TV – channels 33, 34, 1093, and 1094; University of MD-CP – channels 2 and 1092; City of Rockville – 995 and 1085; Takoma Park City TV – channels 13 and 1089. Xfinity Support, *Browse channels available in your area*, COMCAST, <https://www.xfinity.com/support/local-channel-lineup/> (last visited Jun. 14, 2018).

¹² Access Montgomery – channels 19 and 21; Montgomery College TV – channel 10; Montgomery Municipal Cable – channel 16; County Cable Montgomery – channel 30; MCPS Cable TV – channels 35 and 36; University of MD-College Park – channel 40; University of MD-University College – channel 18; Rockville Government – channel 11; Takoma Park City TV – channel 28. *Verizon Fios TV channel guide*, VERIZON, <https://www.verizon.com/info/channel-lineup/> (last visited Jun. 14, 2018).

¹³ The Commission should give no credence whatsoever to ACM's insinuation that cable operators have an economic incentive to “discourage viewing of channels from which they derive no direct revenue.” ACA Reply Comments
MB Docket Nos. 18-92; 17-105
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Finally, the National Association of Telecommunications Officers and Advisors (“NATOA”) argues that rather than eliminate the online public inspection file requirement, the Commission should expand it to include historical records of their channel lineups “over a reasonable period of time.”¹⁴ This proposal should be rejected out of hand, as it was not noticed in the NPRM. Further, while NATOA claims that “without a readily accessible and auditable record of channel lineup changes, the existing notice requirements are, at best, more difficult to enforce and, at worst, virtually meaningless for lack of enforceability,” it does not provide evidence of any systemic failure of the existing subscriber notice requirements that would require additional regulatory intervention.

The record in this proceeding is clear that cable operators have economic incentives to make their channel lineup information available to the public, so the Commission should adopt its proposals to eliminate both Section 76.1705 and 76.1700(a)(4).

ACM Comments at 3. While some cable operators do derive some revenue from inserting ads into cable programming streams (which they cannot do with PEG channels), the vast majority of their revenue comes from subscriber fees. Accordingly, there are very strong incentives for providing accurate and complete information about all channel offerings to existing and potential customers, and very weak incentives to do otherwise.

¹⁴ NATOA Comments at 3.

Respectfully submitted,



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