

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

In the Matter of)
)
Revisions to Public Inspection File) MB Docket No. 16-161
Requirements – Broadcaster Correspondence)
File and Cable Principal Headend Location)

**COMMENTS OF THE
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

The National Cable & Telecommunications Association (NCTA)¹ hereby responds to the *Notice of Proposed Rulemaking* (“*Notice*”) in the above-referenced proceeding.² As explained herein, the Commission should adopt its proposal to eliminate “the requirement that cable operators maintain for public inspection the designation and location of the cable system’s principal headend.”³

DISCUSSION

The Commission required broadcast television stations,⁴ cable systems,⁵ and other entities to migrate their local public inspection files to a Commission-hosted online database, intending both to make certain information more accessible to the general public and to reduce

¹ NCTA is the principal trade association for the U.S. cable industry, representing cable operators serving more than 90 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 over \$245 billion since 1996 to build two-way interactive networks with fiber optic technology. Cable companies also provide state-of-the-art competitive voice service to approximately 30 million customers.

² *See In re Revisions to Public Inspection File Requirements – Broadcaster Correspondence File and Cable Principal Headend Location*, Notice of Proposed Rulemaking, MB Dkt. No. 16-161, FCC 16-62 (rel. May 25, 2016) (“*Notice*”).

³ *See id.* ¶ 1; *see also* 47 C.F.R. § 76.1708.

⁴ *See In re Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Second Report & Order, 27 FCC Rcd 4535 (2012) (“*TV Broadcaster Public File Order*”).

⁵ *See In re Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, Report & Order, 31 FCC Rcd 526 (2016) (“*2016 Expansion Order*”).

costs on regulated entities by eliminating in many cases the need to retain information in a physical location at the local level.⁶ All components of the broadcaster public files have been transitioned online with one exception – letters from the public to local broadcast stations (which were required to be kept at the local level for privacy reasons).⁷ Similarly, a retention requirement for a single category of information—principal headend location information that is not posted online – keeps cable operators from fully transitioning their public files online.⁸

In the instant proceeding, the Commission has proposed a change that would allow cable operators to fully realize the intended benefits of the transition to an online public file. In particular, the *Notice* proposes to eliminate the current requirement to include in the public file the designation and location of a cable operator’s principal headend.⁹ Under the current rules, cable operators who “prefer to retain this piece of information locally rather than posting it online” may do so.¹⁰ Cable operators generally are concerned that posting such information online presents a security risk. Thus, in many cases, cable operators will need to maintain a local file that contains only this one piece of information. As explained herein, eliminating the requirement to retain principal headend information in any cable system public file will relieve cable operators of unnecessary regulatory burdens caused by having to choose between the costs and burdens of retaining a physical public file at the local level or the potential security risks posed by placing headend information in a publicly-accessible online database.¹¹

⁶ See *TV Broadcaster Public File Order* ¶ 1; *2016 Expansion Order* ¶ 1.

⁷ See *TV Broadcaster Public File Order* ¶ 11.

⁸ See *2016 Expansion Order* ¶ 61.

⁹ See *Notice* ¶ 12.

¹⁰ *2016 Expansion Order* ¶ 61.

¹¹ See *Notice* ¶ 1.

As the *Notice* recognizes, members of the general public will not be adversely affected by any such rule revision. Public file requirements for cable were originally adopted in 1974, in an effort to engage the *public* in playing “an informed role in the regulation of cable television,” by providing “at least basic information about a local system’s operations and proposals.”¹² Including principal headend location information in the public file does not serve this goal given that today the Commission “do[es] not believe that *the general public* has any need for or interest in this information.”¹³ Moreover, providing a database of the locations of essential wireline infrastructure like cable headends on a public website presents security risks that are simply not justified.¹⁴

While this requirement provides no public benefits, it is hardly cost-free. Rather, the requirement to retain headend location information locally requires cable operators to incur costs to maintain the public file in a place accessible to the public – all to house and make available

¹² 2016 Expansion Order ¶ 7 (citing *In re Amendment of Part 76 of the Commission’s Rules and Regulations Relative to Obligations of Cable Television Systems to Maintain Public Inspection Files and Permit System Inspections*, Report & Order, 48 F.C.C.2d 72 ¶ 1(1974)). The Commission also noted that requiring a cable public file “follows our policy for broadcast licensees and is necessary for similar reasons” and that “[t]hrough greater disclosure we hope to encourage a greater interaction between the Commission, the public, and the cable industry.” *Id.* (citing *In re Amendment of Part 76 of the Commission’s Rules and Regulations Relative to Obligations of Cable Television Systems to Maintain Public Inspection Files and Permit System Inspections*, Notice of Proposed Rulemaking, 45 F.C.C.2d 669 ¶¶ 2, 13(1974)).

¹³ *Notice* ¶ 12 (emphasis added).

¹⁴ Two Commissioners have acknowledged the potential security risks involved. See 2016 Expansion Order, Comm’r Pai Separate Statement (“[I]ncluding the specific location of cable headends in the online file would raise unnecessary security concerns without providing any benefit to the public.”); Comm’r O’Rielly Separate Statement (referencing a “security issue for cable headend locations”). Press accounts illustrate that vandalism of network infrastructure can have serious consequences for consumers, public safety, and industry. See, e.g., John Eggerton, *Verizon Says Sabotage Incidents Have Increased*, Multichannel News, Apr. 27, 2016, (reporting that incidents of vandalism “have resulted in thousands of customers losing ‘critical’ wireline services), available at <http://www.multichannel.com/news/telco-tv/verizon-says-sabotage-incidents-have-increased/404510>; Drew Fitzgerald, *FBI Investigates New Attack On Internet Fiber Optic Cables*, Wall St. J., June 30, 2015, available at <http://www.wsj.com/articles/fbi-investigates-new-attack-on-internet-fiber-optic-cables-1435709881>; Kaci Poor, *Suddenlink Customers Disconnected After Vandals Cut Fiber Optic Line; Thousands Off-line Friday, Damage Estimated at \$10,000*, The Times-Standard, Mar. 9, 2013, available at <http://www.times-standard.com/20130309/suddenlink-customers-disconnected-after-vandals-cut-fiber-optic-line-thousands-off-line-friday-damage-estimated-at-10000>.

just one document of no legitimate interest to members of the general public. Continuing to require principal headend location information in the public file thus serves no valid purpose.

That said, certain government entities and broadcasters may have a legitimate need to access principal headend location information.¹⁵ In fact, principal headend location information can be relevant to a determination of must-carry rights for local commercial and non-commercial stations. The Commission initially adopted the requirement to retain it in cable public files as part of its rules implementing the must-carry and retransmission consent provisions of the 1992 Cable Act.¹⁶ Soon after those rules were implemented, cable operators were required to formally designate their principal headend locations.¹⁷ As the *Notice* indicates, in the event of a change in a cable system's principal headend location, cable operators are required to "provide written notice by certified mail to all stations carried on its system pursuant to the must-carry rules."¹⁸ Nearly 25 years after stations obtained their must-carry rights under the 1992 Act, it is unlikely that many television stations will have a continuing need to obtain this information or, if there were such a need, that a station would look for it in a cable system's local public file.¹⁹

If local broadcast stations, local franchising authorities, or the Commission lack this information, the Commission's proposal to require that cable operators provide principal

¹⁵ See *Notice* ¶ 13 (explaining that the Commission is "unaware of any reason that the general public would need to know the location of a cable system's principal headend," but that television stations, the Commission, and local franchising authorities may need to access it).

¹⁶ See *id.* (citing *In re Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, Report & Order, 8 FCC Rcd 2965, at 2967, 2979, 2981 (1993)). However, as the *Notice* points out, there was "no discussion" in that decision "about the general public's need to access" the information. *Id.*

¹⁷ See *Notice* ¶ 13.

¹⁸ See *id.* ¶ 16 (citing 47 C.F.R. § 76.1607). Such notice must be provided at least 60 days prior to any change in the designation of the principal headend. See *id.*

¹⁹ Indeed, cable operators report that requests to view *any part* of their public files happen rarely, if ever.

headend location information to entities “upon request” makes sense.²⁰ Requiring the information to be provided to those with a legitimate need for it would be simple and easy. It would not require the design and deployment of a new online database containing the information, nor would it necessitate a new or revised FCC form that would trigger the often lengthy Paperwork Reduction Act process. Rather, a rule requiring cable operators to make this information available upon request by a local broadcast station, local franchising authority, or the Commission would suffice.²¹

In sum, eliminating the headend location requirement serves the Commission’s goals related to the public file: it “would permit all cable operators to transition to a fully online public inspection file, obviating the need for them to also maintain local files, and address the concerns of those operators who believe there may be a potential security risk associated with disclosing the location of the principal headend online.”²² At the same time, entities with a legitimate need to access the information could request it directly from cable operators.

²⁰ See Notice ¶¶ 15-16.

²¹ The Commission’s rules contain other provisions whereby cable operators provide information “upon request.” See, e.g., 47 C.F.R. §§ 76.1700(b)-(c) (requiring cable operators to provide certain information to local franchising authorities and to the Commission upon request); 76.1709(c) (providing that a cable operator must respond to requests for a list of broadcast stations it carries pursuant to that operator’s must-carry obligations).

²² Notice ¶ 12.

CONCLUSION

Consistent with the foregoing, the Commission should adopt its proposal to eliminate the requirement to maintain headend location information in cable system public inspection files.

Respectfully submitted,

/s/ Rick Chessen

Rick Chessen
Diane B. Burstein
Stephanie L. Poday
National Cable & Telecommunications
Association
25 Massachusetts Avenue, N.W. – Suite 100
Washington, D.C. 20001-1431
(202) 222-2445

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