

**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)
)



REPLY COMMENTS OF THE AMERICAN CABLE ASSOCIATION

The American Cable Association (“ACA”) submits these Reply Comments in response to comments filed with respect to the Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceeding.¹

ACA’s comments focused on the NPRM’s proposal to eliminate the requirement that cable operators maintain for public inspection, locally or online, the designation and location of the cable system’s principal headend, and replace it with a different requirement to ensure that headend location information continues to be available to the Commission, local broadcast television stations and, potentially, local franchising authorities (“LFAs”), either by reporting it to the Commission or by proactively making it available to these entities upon request.² ACA

¹ *Revisions to Public Inspection File Requirements – Broadcaster Correspondence File and Cable Principal Headend Location*, Notice of Proposed Rulemaking, MB Docket No. 16-161 (rel. May 25, 2016) (“NPRM”).

² *Id.*, ¶¶ 12, 16.

recommended that, rather than eliminate the requirement to have principal headend information kept in the public inspection file and impose new obligations for reporting, the Commission provide cable operators with the option of continuing to make principal headend information available for inspection in their public inspection files, as they do today, if they find this to be the least burdensome means of making the information available to the Commission, LFAs and local broadcasters.³ However, should the Commission reject ACA's preferred approach and adopt its own proposal to eliminate the public inspection requirement for this information, ACA recommended that the Commission avoid requiring cable operators to proactively provide headend information to the Commission, broadcasters and potentially LFAs, as discussed in the NPRM.⁴ ACA proposed that cable systems instead be allowed to maintain principal headend location information in their records locally, similar to the way proof-of-performance testing and signal leakage reports are maintained, and provide it only upon request to authorized representatives that come to their facilities.⁵

No commenters opposed elimination of the requirement that cable operators maintain principal headend location information in their public inspection files.⁶ Moreover, no broadcaster

³ *Revisions to Public Inspection File Requirements – Broadcaster Correspondence File and Cable Principal Headend Location*, MB Docket No. 16-161, Comments of the American Cable Association at 2-4 (filed July 22, 2016) (“ACA Comments”). ACA notes that although the NPRM is principally focused on how to make principal headend information available to the Commission and broadcast stations, the Commission also asks whether it should make this information accessible to LFAs or other entities. NPRM, ¶ 16. ACA has no objection to making the information available to LFAs upon request, but would oppose expansion of the entities authorized to receive this information beyond broadcasters, LFAs and the Commission.

⁴ ACA Comments at 5-7; see also NPRM, ¶ 16.

⁵ ACA Comments at 5-7.

⁶ The majority of commenters focused on the NPRM's proposal to eliminate the obligation of broadcasters to retain public letters and emails in the public inspection file. See, e.g., *Revisions to Public Inspection File Requirements – Broadcaster Correspondence File and Cable Principal Headend Location*, MB Docket No. 16-161, Comments of National Hispanic Media Coalition, Saga Communications, Broadcaster Coalition, Named State Broadcasters Associations, National Association of Broadcasters (“NAB”), Meredith Corp., and Howard Media Group (filed July 22, 2016). The National Cable and Telecommunications Association (“NCTA”) and WTA-Advocates for Rural Broadband (“WTA”) were the only other filers to comment on the issue of eliminating principal headend information from the public inspection file. Both NCTA and WTA recommended that principal headend information be provided only

or broadcast group even addressed elimination of principal headend information from cable public inspection files in their comments, nor did any broadcast station owner or association express any support for the NPRM's alternative notice or reporting proposals.⁷ These reply comments, therefore, address the sole filing expressing any reservation about the Commission's proposal to eliminate the principal headend public inspection file requirement and demonstrate how ACA's proposal directly addresses this concern.

In its comments, Cohen, Dippell and Everist ("CDE"), an engineering consulting firm based in Washington, DC that serves the broadcast industry, questioned how broadcasters could access principal headend information if it is not contained in the public inspection file. CDE's stated concern stems from the potential need for broadcasters to access principal headend information following the repacking of broadcast stations once the broadcast Incentive Auction is complete.⁸

ACA's proposal allays CDE's concerns. Under ACA's proposal, principal headend location and designation information will remain readily available to broadcasters. Permitting operators to choose between making the information available through retention in their public inspection files or upon request will put broadcasters in essentially the same position they are in today when they need access to the information. There is no policy justification for imposing

upon request, similar to ACA's proposal, which would give operators the option to maintain principal headend information in their public inspection files or maintain it locally and provide it upon request to authorized representatives of the Commission, LFAs and local broadcast stations. See *Revisions to Public Inspection File Requirements – Broadcaster Correspondence File and Cable Principal Headend Location*, MB Docket No. 16-161, Comments of the National Cable & Telecommunications Association at 4-5 (filed July 22, 2016) ("NCTA Comments"); Comments of WTA – Advocates for Rural Broadband at 3-5 (filed July 22, 2016) ("WTA Comments").

⁷ In its reply comments, NAB again refrained from addressing the principal headend issue or objected to either ACA's preferred or alternative proposal for making that information available to local broadcasters. See *Revisions to Public Inspection File Requirements – Broadcaster Correspondence File and Cable Principal Headend Location*, MB Docket No. 16-161, Reply Comments of the National Association of Broadcasters (filed Aug. 22, 2016).

⁸ *Revisions to Public Inspection File Requirements – Broadcaster Correspondence File and Cable Principal Headend Location*, MB Docket No. 16-161, Comments of Cohen, Dippell and Everist, P.C. at 2 (filed July 22, 2016). However, CDE's interest in the matter appears to be primarily those of a broadcast engineering consulting firm rather than reflecting that of particular broadcast stations.

new burdens on cable operators, particularly smaller operators, as a result of the Incentive Auction, especially if the costs incurred are non-reimbursable and reasonable alternatives exist for making the information available at no cost and without additional burden to the operator.

CDE notes that it often downloads information from the Commission's broadcast radio and television technical databases and questions whether there is or will be a technical database should questions arise following repacking concerning principal headend locations.⁹ Even if repacking, as CDE alleges, leads some stations to need principal headend information for initial studies during the course of filing for new television facilities,¹⁰ that information will remain available to them (or CDE) under ACA's proposal. The key difference between ACA's proposal and the NPRM's proposals is that ACA's proposal gives each cable operator the option to retain the information in its public inspection file rather than making it available upon request and submitted by certified mail or through similar means.¹¹ Giving operators the choice to continue to maintain the information locally in their public file or produce it upon request to local broadcasters, LFAs and the Commission balances legitimate needs to access principal headend information with regulatory burdens, and, for some smaller cable providers, would be significantly less burdensome than the alternatives proposed in the NPRM.¹² Moreover, the Commission can meet its goals of streamlining the public file rules while making principal headend location information available to the Commission, LFAs and local broadcasters who

⁹ *Id.* ACA does not understand CDE to be requesting the Commission to establish a cable technical database to house information such as the designation and location of principal headend information. If it is, then such a request would be more effectively made in a Petition for Rulemaking.

¹⁰ *Id.*

¹¹ See NCTA Comments at 5 (suggesting that an "upon request" rule could be modeled on other provisions whereby cable operators provide information "upon request," such as 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, and § 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); WTA Comments at 4 (the Commission should require requestors to submit their requests via certified mail and require a cable operator response via certified mail within 30 days of receipt).

¹² See NPRM, ¶ 15.

possess a legitimate “need to know” by providing operators the flexibility to either retain it in their public inspection files or maintain the information locally and provide it upon request in person to authorized representatives of the Commission, LFAs and local broadcast stations.¹³

In summary, under ACA’s proposal, whether an individual cable operator decides to continue to place principal headend information in its public inspection file or makes it available upon request to an authorized representative of the Commission, broadcaster or LFA appearing in person, authorized persons will be able to access to principal headend designation and location information just as they do today. CDE’s comments therefore do not impede adoption of ACA’s proposal.

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August 22, 2016

¹³ To the extent the Commission shares CDE’s concerns regarding the needs of local broadcast stations to access the principal headend information following repacking after the Incentive Auction, the Commission can address this need by setting the effective date for eliminating the requirement that the information be contained in the public file after the Incentive Auction and when repacking is complete.