

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

In the Matter of)	
)	
Electronic Delivery of Notices to Broadcast)	MB Docket No. 19-165
Television Stations)	
)	
Modernization of Media Regulation Initiative)	MB Docket No. 17-105

**COMMENTS OF
NCTA – THE INTERNET & TELEVISION ASSOCIATION**

NCTA – The Internet & Television Association (“NCTA”)¹ submits these comments in support of the Commission’s proposals in the *Notice of Proposed Rulemaking* (“NPRM”) in the above-captioned proceedings.²

DISCUSSION

NCTA appreciates the Commission’s ongoing efforts to modernize its regulatory landscape and eliminate outdated and burdensome requirements. In the *NPRM*, the Commission (i) proposes to update its Part 76 rules to allow cable operators to provide certain required notices to commercial and noncommercial full-power and Class A television stations solely via e-mail, and (ii) seeks comment on electronic delivery of these notices to non-Class A low-power television (“LPTV”) stations and qualified noncommercial educational (“NCE”) translator

¹ NCTA is the principal trade association of the cable television industry in the United States, which is a leading provider of residential broadband service to U.S. households. Its members include owners and operators of cable television systems serving nearly 80 percent of the nation’s cable television customers, as well as more than 200 cable program networks. Cable service providers have invested more than \$290 billion over the last two decades to deploy and continually upgrade networks and other infrastructure—including building some of the nation’s largest Wi-Fi networks.

² *Electronic Delivery of Notices to Broadcast Television Stations; Modernization of Media Regulation Initiative*, Notice of Proposed Rulemaking, MB Docket Nos. 19-165 & 17-105, FCC 19-68 (rel. July 10, 2019) (“NPRM”).

stations. The Commission should adopt its commonsense proposals, and it should further allow cable operators to deliver these notices via e-mail to all broadcast stations to which the notices apply.

Commercial and Noncommercial Full-Power and Class A Television Stations. The Commission proposes to require that cable operators deliver written notice to commercial and noncommercial full-power and Class A television stations solely via e-mail in the following circumstances:

- informing local broadcast stations that a new cable system intends to commence service (Section 76.64(k));
- sending required information to local broadcast stations when a new cable system is activated (Section 76.1617);
- notifying a television station about the deletion or repositioning of its signal (Section 76.1601);
- informing stations of a change in the designation of the principal headend of a cable operator (Section 76.1607);
- informing stations that a cable operator intends to integrate two cable systems, requiring a uniform carriage election (Section 76.1608); and
- notifying stations that a cable system serves 1,000 or more subscribers and is no longer exempt from the Commission's network non-duplication and syndicated exclusivity rules (Section 76.1609).

As the Commission states in the *NPRM*, each of the above notices is intended to provide broadcast stations with information they may need to make carriage election decisions.³

Significantly, the Commission recently revised the carriage election process to require that full-power and Class A stations post their carriage elections online and send notices to cable operators via e-mail when changing their carriage election status.⁴ The proposal in the *NPRM*

³ *Id.* ¶ 2.

⁴ See *Electronic Delivery of MVPD Communications; Modernization of Media Regulation Initiative*, Report and Order and Further Notice of Proposed Rulemaking, MB Docket Nos. 17-317 & 17-105, FCC 19-69 (rel. July 11, 2019) ("*Carriage Election Notice Modernization Order*").

would simply similarly update the associated rules governing the notices that *cable operators* provide to broadcasters, thereby further streamlining the carriage election regime.⁵

Moreover, as the Commission rightly tentatively concludes, requiring cable operators to deliver the above-listed notices via e-mail would serve the public interest.⁶ E-mail is far less expensive and administratively burdensome than regular and certified mail—e-mail notices need not be printed, posted, and tracked to ensure they reach their destination, and they are already digitized for ease of retention. E-mail delivery would also help ensure that broadcasters receive notices from cable operators in a timely manner. E-mail transmission is near instantaneous; mail, whether certified or not, is significantly slower. Allowing notices to be sent by e-mail is also consistent with the way business is conducted today, in which e-mail communication is routine and pervasive and there is a broader movement toward paperless transactions. Last, e-mail delivery would lessen burdens on the environment by reducing the need for paper and the resultant paper waste. The Commission should therefore adopt its proposal to require e-mail-only delivery of the notices at issue.

The Commission further proposes that, beginning July 31, 2020, cable operators deliver these notices to the carriage election e-mail address the station designates in its online public file.⁷ NCTA agrees with this practical approach. As the Commission notes, the *Carriage Election Notice Modernization Order* requires full-power and Class A stations to designate an

⁵ The Commission's proposal is also consistent with other recent actions the Commission has taken to revise and modernize notice requirements. For instance, the Commission last year authorized cable operators to send certain subscriber Subpart T and privacy notices electronically to a subscriber's verified email address. *See Electronic Delivery of MVPD Communications; Modernization of Media Regulation Initiative*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd. 5269 (2018); *see also National Cable & Telecommunications Association and American Cable Association; Petition for Declaratory Ruling*, Declaratory Ruling, 32 FCC Rcd. 5269 (2017) (addressing Section 76.1602(b) annual subscriber notices only).

⁶ *NPRM* ¶ 9.

⁷ *Id.* ¶ 11.

up-to-date e-mail address for carriage-related questions in their online public files by July 31, 2020.⁸ This e-mail address will therefore be well suited for receipt of the carriage-related notices at issue, and the e-mail address will also be relatively easy for cable operators to locate. In addition, putting the *NPRM*'s proposed changes to the carriage election regime into effect together with the changes in the *Carriage Election Notice Modernization Order* will likely make both transitions smoother.

Non-Class A LPTV Stations and Qualified NCE Translator Stations. The Commission should also require that the above notices be delivered to non-Class A LPTV stations and qualified NCE translator stations solely by e-mail. The benefits that will accrue to operators, stations, and the public from revising these outdated and overly burdensome paper notice requirements to allow e-mail delivery remain, regardless of station class or the fact that these stations have more restrictive carriage rights than full-power and Class A stations. As non-Class A LPTV stations and qualified NCE translator stations are not currently required to maintain public files, the Commission should establish a means for these stations to post an e-mail address with the Commission and require them to do so by July 31, 2020. Subjecting all stations with carriage rights to similar notice processes and implementing these changes together will reduce administrative burdens and help ensure a successful transition. Moreover, as the Commission determined in the *Carriage Election Notice Modernization Order*, a requirement to keep up-to-date contact information on file with the Commission imposes only “minimal” burdens, and it should “not take any entity a great amount of time to come into compliance.”⁹ Should a station fail to provide an up-to-date e-mail address via the Commission-established process, a cable operator should not be required to provide it the notices at issue.

⁸ See *id.*; *Carriage Election Notice Modernization Order* ¶ 17.

⁹ *Carriage Election Notice Modernization Order* ¶ 28.

CONCLUSION

NCTA applauds the Commission's recent efforts to update its regulatory requirements to reflect the way businesses and consumers communicate in today's marketplace. It should continue these efforts by allowing cable operators to deliver the notices required by Sections 76.64(k), 76.1617, 76.1601, 76.1607, 76.1608, and 76.1609 solely via e-mail to all broadcast stations to which the notices apply.

Respectfully submitted,

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