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Federal Communications Commission

FCC 98-159

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

In the Matter of )  
 )  
1998 Biennial Regulatory Review -- ) CS Docket No. 98-132  
Streamlining of Cable Television Services )  
Part 76 Public File and Notice Requirements )

NOTICE OF PROPOSED RULEMAKING

Adopted: July 13, 1998

Released: July 20, 1998

Comment Date: September 10, 1998

Reply Comment Date: September 25, 1998

By the Commission: Commissioner Furchtgott-Roth issuing a separate statement.

I. INTRODUCTION

1. In this Notice of Proposed Rulemaking ("NPRM"), we seek comment on streamlining the public file and notice requirements in the Commission's Part 76 cable television rules.<sup>1</sup> We propose to make it easier to find and comply with these rules by making common sense changes that lessen confusion and reduce the regulatory burden faced by franchising authorities and cable operators. At the same time, we can not impede our continuing mission to protect consumers, enforce our rules, and promote competition.

2. Section 11 of the 1996 Telecommunications Act instructs the Commission "to conduct a biennial review of regulations that apply to operations and activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer in the public interest."<sup>2</sup> Although Section 11 does not refer to the cable television rules generally, the Commission has determined that the first biennial review presents an opportunity for a thorough examination of all of the Commission's regulations.<sup>3</sup> We believe that, although not required by statute, consideration of the public file and notice requirements addressed is appropriate in conjunction with the biennial review.

<sup>1</sup>47 C.F.R. §§ 76.1 - 76.1514 (1997).

<sup>2</sup>Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); 47 U.S.C. §161.

<sup>3</sup>See FCC News Release, *1998 Biennial Review Begun Early* (November 18, 1997).

## II. DISCUSSION

3. The Part 76 cable television rules contain numerous public file, notice, recordkeeping, and reporting requirements, most of which are listed in Appendix A. These requirements provide consumers with information about the services they receive and the rates they pay. For example, cable operators must notify subscribers before increasing rates and must maintain records demonstrating compliance with certain safety and quality standards. These requirements also support the rights of various parties to deliver their programming over cable systems (e.g., maintenance of must-carry and political cablecasting records), and they strengthen the Commission's efforts to enforce its rules and promote competition in the multichannel video industry (e.g., maintenance of performance test results and leased access policies). Because they are scattered throughout Part 76, cable operators have expressed frustration and difficulty in identifying these requirements and organizing them in a workable manner. We seek comment on whether and how we should reorganize or modify Part 76 to make identification and compliance easier. For example, the Cable Telecommunications Association ("CATA") has informally suggested that we reorganize these requirements by removing them from their original sections and placing them in three new subparts.<sup>4</sup> We have included CATA's recommendation as Appendix B and seek comment on it.

4. Certain public file information that cable operators must maintain may be difficult to collect and inefficient to maintain, especially when that information is infrequently used or readily available through another source. In addition to suggestions on whether and how we should reorganize the public file rules, we seek comment on whether and how specific requirements have become unnecessary, deserve consolidation, or can be otherwise improved to make public participation in the enforcement process more effective. We seek comment on consolidating the public file rules to lessen any confusion and burden created by their location in several places.<sup>5</sup> We note that CATA has filed a suggested NPRM in which it makes particular recommendations regarding changes to the public file requirements.<sup>6</sup> We have placed this suggested NPRM in the record of this proceeding and we encourage parties to comment on CATA's specific recommendations.<sup>7</sup>

5. We seek comment on alternative ways to make public file information available to those who need access to it. For example, we could grant operators the option of producing information in response to a request, rather than having them maintain a specific public file. This may prove particularly beneficial for information which is rarely, if ever, sought. What public file information does this include? Why does no one ask for it? Is it available from another source? We could also grant operators the option of posting information on the Internet, where it may be more accessible than a paper file and less burdensome to maintain. Ameritech has informally offered a list of public file requirements that could

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<sup>4</sup>CATA Suggested Notice of Proposed Rulemaking (filed March 11, 1998) ("*CATA suggested NPRM*").

<sup>5</sup>See, e.g., Appendix A.

<sup>6</sup>*CATA suggested NPRM*.

<sup>7</sup>As the CATA filing addresses rule changes beyond those relating to public file requirements, we request that commenters address only those changes related to public file requirements, as any other changes are outside the scope of this particular proceeding.

be put on the Internet, including Equal Opportunity Employment records,<sup>8</sup> commercial records for children's programming,<sup>9</sup> and must-carry reporting obligations that impact broadcasters (e.g., changes in principal headends) and the viewing public (e.g., lists of available signals and channel line-up).<sup>10</sup> We seek comment on Ameritech's suggestions.

6. If we allow this, those persons who do not have access to the appropriate technology must continue to have the information available to them. Is lack of access to computer services by interested parties a significant problem? How can we guarantee that interested parties will continue to have access to information that is on the Internet if they do not use the Internet or do not have the appropriate technology available? Ameritech suggests that the Commission could require a cable operator that chooses not to maintain paper copies of its public inspection file to make available at its public inspection file site a computer terminal capable of accessing the operator's website.<sup>11</sup> We seek comment on the costs and benefits of this option.

## II. PROCEDURAL MATTERS

### A. Initial Regulatory Flexibility Act Analysis For the NPRM

7. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 603, the Commission is incorporating an Initial Regulatory Flexibility Analysis ("IRFA") of the expected impact on small entities of the policies and proposals in this Notice of Proposed Rulemaking. Written public comments concerning the effect of the proposals in the NPRM, including the Initial Regulatory Flexibility Act, on small businesses are requested. Comments must be identified as responses to the IRFA and must be filed by the deadlines for the submission of comments in this proceeding. The Secretary shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.<sup>12</sup>

8. *Reasons Why Agency Action is Being Considered.* Section 11 of the 1996 Telecommunications Act requires the Commission to conduct a biennial review of regulations that apply to operations and activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer in the public interest.<sup>13</sup> Although Section 11 does not specifically refer to cable operators, the Commission has determined that the first biennial review presents an excellent opportunity for a thorough examination of all of the Commission's regulations.

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<sup>8</sup>47 C.F.R. §§ 76.305(a), 76.79(a) and (b).

<sup>9</sup>47 C.F.R. §§ 76.305(a), 76.225(c).

<sup>10</sup>47 C.F.R. §§ 76.302(b), 76.56(e), 76.302(a).

<sup>11</sup>See Letter from Christopher M. Heimann, Counsel for Ameritech New Media, March 27, 1998.

<sup>12</sup>Regulatory Flexibility Act §603(a), Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. §603(a) (1981), as amended.

<sup>13</sup>47 U.S.C. § 161; FCC News Release (Nov. 18, 1997).

9. *Need for Action and Objectives of the Proposed Rule Change.* In this NPRM, the Commission seeks to reorganize, modify, or eliminate the public file and notice requirements in Part 76 of the Commission's rules relating to cable television service. The Commission proposes to make these requirements easier to find and easier to use, while eliminating the rules which no longer serve the public interest or which have become outdated. The Commission's goal is to ease the regulatory burden on the marketplace with common sense changes that promote competition while continuing to benefit the public.

10. *Legal Basis.* The authority for the action proposed for this rulemaking is contained in Section 4(i)-(j) of the Communications Act of 1934, as amended.<sup>14</sup>

11. *Description and Estimate of the Number of Small Entities Impacted.* The IRFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules. The IRFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under Section 3 of the Small Business Act.<sup>15</sup> Under the Small Business Act, a small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.<sup>16</sup>

12. The proposal to reorganize, modify, or eliminate the public file and notice requirements in Part 76 of the Commission's rules applies to all cable system operators. The Commission has developed, with SBA's approval, its own definition of a small cable system operator for rate regulation purposes. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide.<sup>17</sup> Based on our most recent information, we estimate that there were 1439 cable operators that qualified as small cable companies at the end of 1995.<sup>18</sup> Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1439 small entity cable system operators that may be affected by the decisions and rules we are adopting.

13. The Communications Act also contains a definition of a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1% of

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<sup>14</sup>47 U.S.C. §§ 154(i)-(j).

<sup>15</sup>5 U.S.C. § 601(3) (1980) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of small business applies "unless an agency after consultation with the Office of Advocacy of the Small Business Administration and after an opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes definitions in the Federal Register.

<sup>16</sup>Small Business Act, 15 U.S.C. § 632.

<sup>17</sup>47 C.F.R. § 76.901(e). The Commission developed this definition based on its determinations that a small cable system operator is one with annual revenues of \$100 million or less. *Implementation of Sections of the 1992 Cable Act: Rate Regulation*, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393 (1995).

<sup>18</sup>Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."<sup>19</sup> The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 617,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed \$250 million in the aggregate.<sup>20</sup> Based on available data, we find that the number of cable operators serving 617,000 subscribers or less totals 1450.<sup>21</sup> Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

14. *Reporting, Recordkeeping, and other Compliance Requirements:* The Commission is proposing to eliminate certain recordkeeping or information collection requirements, and, in the alternative, we are proposing to substantially reduce such burdens.

15. *Significant Alternatives Which Minimize the Impact on Small Entities and which are Consistent with Stated Objectives:* The NPRM solicits comments on all alternatives to reorganize, modify, or eliminate the public file and notice requirements in Part 76 of the Commission's rules. Any significant alternatives presented in the comments will be considered.

16. *Federal Rules which Overlap, Duplicate, or Conflict with the Commission's Proposal:* None.

17. *Report to Congress.* The Commission shall send a copy of this IRFA along with this Notice in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, codified at 5 U.S.C. §801(a)(1)(A). A copy of this IRFA will also be published in the Federal Register.

## **B. Paperwork Reduction Act of 1995 Analysis**

18. The requirements proposed in this Notice have been analyzed with respect to the Paperwork Reduction Act of 1995 (the "1995 Act") and could potentially impose modified information collection requirements on the public. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to take this opportunity to comment on the proposed modifications to the information collection requirements contained in this Notice, as required by the 1995 Act. Public comments are due 21 days from date of publication of this Notice in the Federal Register. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information would have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

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<sup>19</sup>47 U.S.C. § 543(m)(2).

<sup>20</sup>47 C.F.R. § 76.1403(b) (SIC 4833).

<sup>21</sup>Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

19. Written comments by the public on the proposed and/or modified information collections are due [21 days after Federal Register publication]. Written comments must be submitted by the Office of Management and Budget ("OMB") on the proposed and/or modified information collections on or before 60 days after date of publication in the Federal Register. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov) and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 - 17th Street, N.W., Washington, DC 20503 or via the Internet to [fain\\_t@al.eop.gov](mailto:fain_t@al.eop.gov).

### C. Ex Parte Rules

20. This proceeding will be treated as a "permit-but-disclose" proceeding subject to the "permit-but-disclose" requirements under Section 1.1206(b) of the rules. 47 C.F.R. §1.1206(b), as revised. Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making oral ex parte presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. §1.1206(b)(2), as revised. Additional rules pertaining to oral and written presentations are set forth in Section 1.1206(b).

### D. Filing of Comments and Reply Comments

21. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415 and 1.419, interested parties may file comments on or before September 10, 1998 and reply comments on or before September 25, 1998. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments and reply comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, Federal Communications Commission, 1919 M Street N.W., Washington D.C. 20554. The Cable Services Bureau contact for this proceeding is Don Fowler at (202) 418-7200 or [dfowler@fcc.gov](mailto:dfowler@fcc.gov).

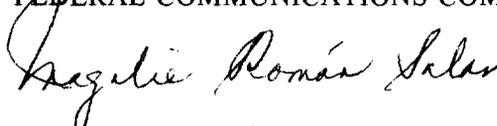
22. Parties are also asked to submit comments and reply comments on diskette, where possible. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Donnie Fowler of the Cable Services Bureau, 2033 M Street N.W., 9th floor, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using MS DOS 5.0 and WordPerfect 5.1 software. The diskette should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comments or reply comments), and date of submission. The diskette should be accompanied by a cover letter.

## III. ORDERING CLAUSES

23. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i)-(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), **NOTICE IS HEREBY GIVEN** of proposed amendments to Part 76, in accordance with the proposals, discussions and statements of issues in this Notice of Proposed Rulemaking, and that **COMMENT IS SOUGHT** regarding such proposals, discussions and statements of issues.

24. **IT IS FURTHER ORDERED** that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. §§ 601 *et seq.* (1981).

FEDERAL COMMUNICATIONS COMMISSION



Magalie Roman Salas  
Secretary

## Appendix A

**Identification of Public File and Notice Requirements  
Under Part 76**

**A. DOCUMENTS MAINTAINED FOR INSPECTION****1. Public File Requirements**

Public File Records	§§ 76.305, 76.307
Political file	§ 76.207
Equal employment opportunity policy	§ 76.73
Employment reports	§§ 76.77, 76.79
Sponsorship Identification	§ 76.221
Commercial limits during children's programs	§ 76.225(c)
Emergency alert system (EAS) tests and activation	§§ 76.300, 76.305(a)(1)
Principal headend	§§ 76.302(b), 76.58(c), 76.1506(g)
Must-carry records	§§ 76.302, 76.56(e)
Operator ownership of video programming	§ 76.504(e)
Performance tests (channel listing)	§ 76.601(b)
Leased access obscenity policy	§ 76.701
Open video system (OVS) requests for carriage	§ 76.1503(c)(2)(ii)

**2. Documents Available Upon Request**

FCC rules and regulations	§§ 76.301, 78.67
Must-carry records	§§ 76.302, 76.56(e)
Subscriber records and public inspection file	§ 76.307
Notification to subscribers	§ 76.309(c)(3)(i)
Customer service - general information	§ 76.309(c)(3)(i)(A)
Proof of performance test data	§ 76.601(c), (e)
Resolution of subscriber complaints on signal quality	§ 76.607
Signal leakage logs and repair records	§ 76.614
Grandfathered operation in certain frequency bands	§ 76.619(b)
Commercial leased access rate justification	§ 76.970(h)(5)
Compliance with technical standards	§ 76.601(a)
Leased access rates and contract	§ 76.970(h)
OVS: policy on carriage of video programming	§ 76.1503(c)(2)(ii)

**B. NOTICES****1. Notices About Rate or Service Changes**

Deletion or repositioning of broadcast stations	§§ 76.58(a), 76.1506(g)
Customer service - general information	§ 76.309(c)(3)(i)(A)
Rate and service changes	§§ 76.309(c)(3)(i)(B), 76.932, 76.964
Resolution of subscriber complaints	§ 76.607
Waiver of scrambling prohibition in BST	§ 76.630(a)
Equipment compatibility offer	§ 76.630(c)
Consumer education program on compatibility	§ 76.630(d)
Rate change while complaint pending	§ 76.958
Charges for customer changes in service	§ 76.980(d)

	New product tier cessation	§ 76.987(e)
	Refunds - notice to operator	§ 76.942(a)
	Franchising authority certification to regulate rates	§§ 76.910, 76.917, 76.982
	Commission review of basic service rates	§ 76.945
	Franchise authority notice for CPST rate complaints	§ 76.1402
	Small cable operators	§ 76.1403
<b>2.</b>	<b>Notices About Changes in Operations</b>	
	Principal headend	§§ 76.58(c), 76.1506(g)
	Retransmission consent status	§ 76.64(j), (l)
	Change of ownership and operational information	§§ 76.400, 76.502
	Grandfathered operation in certain frequency bands	§ 76.619(b)
<b>3.</b>	<b>Political File and Political Cablecasting Notices</b>	
	Political file	§ 76.207
	Political cable rates and classes of time	§ 76.206(b)
	Personal attack and political editorials	§§ 76.209(b), 76.209(d)
<b>4.</b>	<b>Notices to New Subscribers</b>	
	Availability of signals	§ 76.56(d)(3)
	Notification to subscribers	§ 76.309(c)(3)(i)
	Equipment compatibility offer	§ 76.630(c)
	Consumer education program on compatibility	§ 76.630(d)
	Basic tier availability	§ 76.931
<b>5.</b>	<b>Programming Notices</b>	
	Commercial station election of must-carry status	§ 76.57(d)
	Commercial station complaint regarding must-carry	§ 76.61
	Retransmission consent	§ 76.64
	Sports programming blackouts	§ 76.67
	Non-duplication protection	§§ 76.94, 76.95, 76.1506(c)
	Syndicated program exclusivity	§ 76.151, 76.155, 76.156, 76.1506(c)
	Sponsorship identification	§ 76.221
	OVS deletion or repositioning of broadcast stations	§ 76.1506(g)
	OVS must-carry/retransmission consent election	§ 76.1506(l)
	OVS non-duplication/syndicated program exclusivity protection	§ 76.1506(c)
<b>6.</b>	<b>Other Notices</b>	
	Intent to enforce customer service standards	§ 76.309(a)
	Contracts with local exchange carriers	§ 76.1404(a)
	Information in subscriber bills	§ 76.309(c)(3)(ii)
	Aeronautical frequencies: power levels of transmissions	§ 76.615(b)
	Disposition of cable home and home run wiring	§§ 76.802, 76.804
	Change in competitive status of cable operator	§ 76.915

**C. REPORTS AND FILINGS****1. Rates**

Franchising authority certification to regulate rates	§§ 76.910, 76.917
Rates for basic and cable programming service tier	§ 76.922
Initial rate determination - Form 1200 series	§§ 76.922(b)(6), 76.930
Quarterly rate adjustments - Form 1210	§§ 76.922(d), (c)(3)
Annual rate adjustments - Form 1240	§§ 76.922(e), (c)(3), 76.933(g)
Equipment rates - Form 1205	§§ 76.923(n), (o)
Cost-of-service and external cost rates	§ 76.924
Small system rates - Form 1230	§ 76.934(h)
Franchising authority written rate decision	§ 76.936
Implementation and certification of compliance	§ 76.962

**2. Other Reports and Filings**

Registration statement	§ 76.12
Special temporary authority to operate	§ 76.29(c)
Waiver of effective competition standard	§ 76.33(a)(3)
Annual employment report	§ 76.77
Aeronautical frequencies: signal list	§ 76.615(a)
Small Systems: alternative rate regulation agreements	§ 76.934(g)(2)
A la carte offerings	§ 76.986
Response to new product tier complaints	§ 76.987(f)
New product tier services and rates	§ 76.987(g)
Open video systems certification	§ 76.1502
Notice of intent to establish an OVS	§ 76.1503(b)

**Appendix B****Cable Television Association (CATA)  
Recommendations for Reorganizing Part 76 Rules Regarding Notice,  
Filing, Recordkeeping, and Reporting Requirements****Consolidation of Notice, Filing and Recordkeeping Requirements**

In order to provide a framework to enable cable operators and others to work with these requirements, CATA proposes that the Commission amend its Part 76 Rules to create three new subparts. These new subparts would be composed of the bulk of existing notice, filing and recordkeeping requirements. New Subpart T would include the Commission's notice requirements, new Subpart U would contain recordkeeping requirements, and new Subpart V will contain reporting and filing requirements. These subparts are proposed by CATA to be further divided into the following subsections:

**Subpart T - Notices**

- Notices About Rate or Service Changes
- Notices About Changes in Operations
- Political Cablecasting Notices
- Miscellaneous Notices
- Notices Required to be Given to New Subscribers
- Notices that Must be Given Annually

**Subpart U - Documents to be Maintained for Inspection**

- Public Inspection File Documents
- Upon Request Documents

**Subpart V - Reports and Filings**

A cross-reference listing of the proposed new Subpart T, U, and V regulations and the sections from which the new regulations were taken is listed below. CATA believes that cable operators and others who are obligated to make reference to the Commission's Part 76 Rules will benefit from this reorganization. CATA recognizes, however, several existing requirements are too intertwined with existing rules to allow easy movement to the new subparts. These requirements, such as the notice requirements for cable inside wiring, are proposed by CATA to remain in their current sections but are referenced in "catch-all" sections of the new subparts. In this way, CATA proposes that the Commission at least reference all cable operator notice, filing and recordkeeping requirements in these new subparts, even if in some instances the actual rule is contained elsewhere. Where certain rules require notice to be provided at different times (*e.g.*, annually, at the time of installation, and at any time upon request), the proposed new rules make reference to the notice requirement in every subsection of Subpart T in which the notice requirement applies. In addition, CATA proposes to mention, in notes at the end of various sections, certain notice, filing, and recordkeeping requirements which are not contained in Part 76 of the Rules. These notes will include, for example, references to the semi-annual Copyright filing requirement, and to requirements which appear in the Communications Act but not the Commission's Rules. By

mentioning these additional, non-Part 76 requirements, the Commission does not propose that the Commission duplicate existing mandates that cable operators comply with such requirements, but rather CATA proposes that the Commission simply notify cable operators and others that such requirements exist. Finally, where CATA proposes to extract a notice, filing or recordkeeping requirement from current sections of the rules, it proposes that a note be added to the former section reminding operators of their need to comply with the requirement that has been transferred to the new section.

CATA believes that its proposed restructuring of the notice, filing and recordkeeping requirements will greatly assist cable operators in compliance with these requirements and will assist others in monitoring cable operator compliance. CATA requests that the Commission seek comments on CATA's proposed restructuring, including comments on how its proposed restructuring may be improved.

**Cable Television Association  
Recommendations for Reorganizing Part 76 Rules Regarding Notice,  
Filing, Recordkeeping, and Reporting Requirements**

**Cross-Reference Listing of New Subpart T, U and V  
Sections with Previous Sections of Part 76**

**Subpart T - Notices**

**NOTICES ABOUT RATE OR SERVICE CHANGES**

<u><b>New Section</b></u>	<u><b>Previous Section</b></u>
76.1601 Deletion or repositioning of broadcast signals.	76.58(a)
76.1602 Customer service - general information.	76.309(c)(3)(i)(A), 76.607
76.1603 Customer service - rate and service changes.	76.309(c)(3)(i)(B), 76.932, 76.964
76.1604 Charges for customer service changes.	76.980(d)
76.1605 New product tier.	76.987(g)
76.1606 Rate change while complaint pending.	76.958

**NOTICES ABOUT CHANGES IN OPERATIONS**

<u><b>New Section</b></u>	<u><b>Previous Section</b></u>
76.1607 Principal headend	76.58(c)
76.1608 System technical integration requiring uniform election of must-carry or retransmission consent status.	76.64(j)
76.1609 Non-duplication and syndicated exclusivity.	76.95, 76.156
76.1610 Change of operational information.	76.400

**POLITICAL CABLECASTING NOTICES**

<b><u>New Section</u></b>	<b><u>Previous Section</u></b>
76.1611 Political cable rates and classes of time.	76.206(b)
76.1612 Personal attack.	76.209(b)
76.1613 Political editorials.	76.209(d)

**MISCELLANEOUS NOTICES**

<b><u>New Section</u></b>	<b><u>Previous Section</u></b>
76.1614 Additional miscellaneous notifications.	None
76.1615 Identification of must-carry signals.	76.56(e)
76.1616 Sponsorship identification.	76.221
76.1617 Leased access rates and contract.	76.970(h)
76.1618 Contracts with local exchange carriers.	76.1404(a)
76.1619 Initial must-carry notice.	76.58(b), (d) and (e)
76.1620 Basic tier availability.	76.931
76.1621 Information on subscriber bills.	76.309(c)(3)(ii)

**NOTICES REQUIRED TO BE GIVEN TO NEW SUBSCRIBERS**

<b><u>New Section</u></b>	<b><u>Previous Section</u></b>
76.1622 Additional new subscriber notifications.	None
76.1623 Availability of signals.	76.56(d)(3)
76.1624 Equipment compatibility offer.	76.630(c)
76.1625 Consumer education program on compatibility.	76.630(d)

**NOTICES THAT MUST BE GIVEN ANNUALLY****New Section****Previous Section**

76.1626 Annual notifications.

None

**Subpart U -- Documents to be Maintained for Inspection****PUBLIC INSPECTION FILE DOCUMENTS****New Section****Previous Section**

76.1700 Records to be maintained locally by cable

76.305

76.1701 Political file.

76.207

76.1702 Equal employment opportunity.

76.79(b)

76.1703 Commercial matter on children's programs.

76.225(c)

76.1704 Proof of performance test data.

76.601(c), (e)

76.1705 Performance tests (channels delivered).

76.601(b)

76.1706 Signal leakage logs and repair records.

76.614

76.1707 Leased access.

76.701

76.1708 Principal headend.

76.302(b), 76.305(b), 76.58(c)

76.1709 Availability of signals.

76.302, 76.56(e)

76.1710 Operator interests in video programming.

76.504(e)

76.1711 Emergency alert system (EAS) tests and activation.

76.300, 76.305(a)(1)

76.1712 Open video system (OVS) requests for carriage.

76.1503(c)(2)(ii)

**UPON REQUEST DOCUMENTS**

<b><u>New Section</u></b>	<b><u>Previous Section</u></b>
76.1713 Additional upon request documents.	None
76.1714 Commercial leased access rate justification.	76.970(h)(5)
76.1715 Complaint resolution.	76.607
76.1716 FCC rules and regulations.	76.300(b), 76.301, 78.67
76.1717 Subscriber records and public inspection file.	76.307
76.1718 Compliance with technical standards.	76.601(a)

**Subpart V -- Reports and Filings**

<b><u>New Section</u></b>	<b><u>Previous Section</u></b>
76.1800 Additional reports and filings.	None
76.1801 Registration statement.	76.12
76.1802 Equal employment opportunity.	76.77
76.1803 Aeronautical frequencies: signal list.	76.615(a)
76.1804 Aeronautical frequencies: leakage monitoring (CLI).	76.615(b)
76.1805 Alternative rate regulation agreements.	76.934(g)(2)

**Separate Statement of Commissioner Harold W. Furchtgott-Roth****In re: Streamlining of Cable Television Services, Part 76 Public File and Notice Requirements, Notice of Proposed Rulemaking****1998 Biennial Regulatory Review -- CS Docket No. 98-132**

I support adoption of this Notice of Proposed Rulemaking. In my view, any reduction of unnecessary regulatory burdens is beneficial. To that extent, this item is good and I am all for it. This item should not, however, be mistaken for complete compliance with Section 11 of the Communications Act.

As I have explained previously, the FCC is not planning to "review *all* regulations issued under this Act . . . that apply to the operations or activities of any provider of telecommunications service," as required under Subsection 11(a) in 1998 (emphasis added). See generally *1998 Biennial Regulatory Review -- Review of Computer III and ONA Safeguards and Requirements*, 13 FCC Rcd 6040 (released Jan. 30, 1998). Nor has the Commission issued general principles to guide our "public interest" analysis and decision-making process across the wide range of FCC regulations.

In one important respect, however, the FCC's current efforts are more ambitious and difficult than I believe are required by the Communications Act. Subsection 11(a) -- captioned "Biennial Review" -- requires only that the Commission "*determine* whether any such regulation is no longer necessary in the public interest." (emphasis added). It is pursuant to Subsection 11(b) -- entitled "Effect of Determination" -- that regulations determined to be no longer in the public interest must be repealed or modified. Thus, the repeal or modification of our rules, which requires notice and comment rulemaking proceedings, need not necessarily be accomplished during the year of the biennial review. Yet the Commission plans to complete roughly thirty such proceedings this year.

I encourage parties to participate in these thirty rulemaking proceedings. I also suggest that parties submit to the Commission -- either informally or as a formal filing -- specific suggestions of rules we might determine this year to be no longer necessary in the public interest as well as ideas for a thorough review of all our rules pursuant to Subsection 11(a).

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