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Broadcasting Cablecasting

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Cable

Anatomy of Cable Regulations

An outline of federal cable television rules, including current regulations and developments

Cable television (also called CATV or community antenna television) was developed in the late 1940's in communities unable to receive TV signals because of terrain or distance from TV stations. Cable systems located their antennas in areas having good reception, picked up broadcast signals, and then distributed them by coaxial cable to subscribers for a fee.

In 1950 cable systems were operating in only 70 communities in the United States; these systems served 14,000 subscribers, i.e., cable television homes. By the middle of 1984, according to A.C. Nielsen, approximately 2,600 cable systems served more than 32.9 million subscribers. The largest technically integrated system Cox Cable in San Diego serves some 250,000 subscribers.

Cable television systems are operating in every state of the United States and in several other countries, including Austria, Canada, Belgium, Germany. Great Britain, Italy, Japan, Mexico, Sweden, and Switzerland. Within the U.S., Pennsylvania has the largest number of cable systems, and California has the largest number of subscribers. Although the number of systems in large metropolitan areas is increasing, most cable systems are still located in small communities.

Most systems are capable of offering 12 or more channels. Channel capacity in the industry has increased steadily over the years. Systems with up to 54 channels are now common. Many systems now being built in large metropolitan areas have two cables and the ability to transmit more than 100 channels.

The abundant channel capacity makes it possible for cable systems to provide many services in addition to the retransmission of broadcast signals. They include a myriad of cable networks offering programing ranging from news to sports to uncut, uninterrupted movies. Some, like Home Box Office and Showtime, are supported by monthly subscriber fees; others, like ESPN and Cable News Networks, are supported primarily by advertising dollars.

Some cable operators also originate local programing and provide "access" channels and lease channels for public and institutional uses. Electronic banking and shopping, utility-meter reading, home security and videotext are some of the services made feasible by the two-way transmission capabilities of the newest cable systems, but such services are not commonplace.

Initial Jurisdiction and Rules

The Federal Communications Commission first established rules in 1965 for systems which received signals by microwave. (Microwave stations have always been licensed by the FCC.) In March 1966, the commission established rules for all cable systems, whether or not served by microwave. See *Second Report and Order* in Docket 14895, 2 FCC 2d 725 (1966). The regulations required cable systems to carry all local TV stations (the must-carry rule); prohibited systems from duplicating with an imported distant signal on the same day, a program broadcast by a local station, and prohibited systems from importing distant signals into the 100 major television markets without a hearing on the probable effect on local broadcasting. In all other markets, no restrictions were placed on the signals a cable system might carry, but procedures were adopted permitting threatened stations to challenge proposed importation of distant signals.

Challenged in the courts, the FCC cited its mandate under the Communications Act to regualate "interstate commerce by wire or radio." In June 1968, the Supreme Court affirmed the commission's jurisdiction over cable. The benchmark case, *United States v. Southwestern Cable Co.*, 392 U.S. 157 (1968), arose from an interim commission decision in 1966 which limited the right of San Diego cable systems to carry the signals of Los Angeles stations. The court decided that "the commission has reasonably concluded that regulatory authority over CATV is imperative if it is to perform with appropriate effectiveness certain of its responsibilities." The court found that the FCC needed authority over cable systems to assure the preservation of local broadcast service and to effect an equitable distribution of broadcast services among the various regions of the country.

On December 13, 1968, the commission invited comments on a major revision and expansion of its cable rules (Docket 18397). The commission adopted "interim procedures" for use during the rulemaking proceeding. These procedures included suspension of distant signal hearings, deferral of processing of all petitions or applications seeking authorization of service inconsistent with the proposed signal carriage rules and grant of carriage requests consistent with the proposed rules.

A general outline of the proposed resolution of these proceedings was submitted to Congress on August 5, 1971, in a "Letter of Intent." While the rules adopted six months later generally adhered to those proposals, they were modified to reflect the consensus agreement on exclusivity and distant signal importation reached among broadcast, cable and television programers in cooperation with the FCC and the White House Office of Telecommunications Policy.

The rules which the FCC adopted February 2, 1972, and which became effective March 31, 1972, where the most comprehensive compilation of regulations ever issued on cable television. See *Cable Television Report and Order*, 36 FCC 2d 143 (1972).

Current Rules and Proposed Changes

The rules adopted in 1972 required cable television operators to obtain a certificate of compliance from the FCC prior to operating a cable television system or adding a television broadcast signal. The rules applicable to cable operators fell into the following broad subject areas: franchising standards, signal carriage, network program nonduplication and syndicated program exclusivity, nonbroadcast or cablecasting services, cross-ownership, equal employment opportunity, and technical standards. Cable

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operators who originated programing were subject to equal time, Fairness Doctrine, sponsorship identification and rules applicable to braodcasters. Cable operators were required to maintain certain records and to file annual reports with the FCC concerning employment and finances.

Since 1972, the FCC has modified or eliminated many of the rules. Among the significant actions, the FCC deleted most of the franchise standards in 1977; substituted a signal registration process for the certificate-of-compliance process in 1978, and eliminated the distant-signal carriage restrictions and syndicated program exclusivity rules in 1980. In addition, court actions led to the deletion of the pay cable programing rules in 1977 and deletion of the cable television access rules in 1979.

For regulatory purposes, the rules distinguish between the term "cable television system" and "system community unit." A cable television system is described as a "nonbroadcast facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment, under common ownership and control, that distributes or is designed to distributed to subscribers the signals of one or more television broadcast stations...." This definition does not include such facilities which serve fewer than 50 subscribers. Facilities which serve subscribers in one or more multiple unit dwellings under common ownership or management, usually master antenna television (MATV) systems, are also exempted under the FCC definition, regardless of whether they serve 50 or more subscribers.

As a precondition to commencing operation or adding any television broadcast signals to existing operations, a cable system operator must separately register each system community unit with the commission. If a cable television facility serves fewer than 50 subscribers but is part of a larger system which, taken as a whole, serves 50 or more subscribers, the smaller facility is considered a community unit and is required to register. Effective October 20, 1978, the commission eliminated the certificate of compliance application process for cable systems and instituted this new procedure. To register, a cable television operator must send the following information to the Secretary of the Commission:

(1) The legal name of the operator, Entity Identification or Social Security number, and whetehr the operator is an individual, private association, partnership or corporation; if the operator is a partnership, the legal name of the partner responsible for the communications with the commission;

(2) The assumed name (if any) used for doing business in the community;

(3) The mail address, including zip code, and the telephone number to which all communications are to be directed;

(4) The date the system provided service to 50 subscribers;

(5) The name of the community or area served and the county in which it is located;

(6) The television broadcast signals to be carried which previously have not been certified or registered; and

(7) For a cable system (or an employment unit) with five or more full-time employees, a statement of the proposed community unit's equal employment opportunity program, unless such program has previously been filed for the community unit or is not required to be filed based on an anticipated number of fewer than five full-time employes during January, February and March of the year following commencement of oepration; an explanation must be submitted if no program statement is filed.

Registration statements must be signed by an authorized representative of the cable television company.

The cable television operator is not required to serve the registration statement on any party and may begin operation or add new signals immediately upon filing the registration statement. However, commencement of operation is entirely at the risk of the system operator; if violations of the rules are subsequently discovered, appropriate regulatory sanctions, including imposition of forfeitures and the issuance of cease and desist orders, may be employed. The commission does not systematically review the information to ascertain if the service proposed is in compliance with its rule. Filing a waiver request or including in a registration statement signals whose carriage is not permitted by the rules will not prevent the commission from imposing sanctions if carriage is commenced in violations of the rules, even if it subsequently were determined that waiver is appropriate.

Cable systems previously certified (and those which had certificates of compliance pending) are considered to be registered. No further filings, other than required annual reports, are necessary unless new signals are added.

Cable television systems serving fewer than 1,000 subscribers, are exempt from most of the commission's rules. Generally, only the following requirements apply to smaller cable systems:

(1) Comply with the registration requirements described above;

(2) Comply with requests from local television stations for carriage on the cable systems;

(3) Comply with the commission's technical standards for cable television systems, including the frequency use requirements (except that annual proof of performance tests are not required);

(4) Correct and/or furnish information in response to the following forms sent to the cable operator annually by the commission: Form 325: "Annual Report of Cable Television System" (Schedules 1 and 2 only); Form 326: "Cable Television Annual Financial Report"; Form 395A: "Annual Employment Report" (including the annual report of complaints).

Acknowledging that federal licensing would be an unmanageable burden and that the industry was uniquely suited to "a deliberately structured dualism," the commission adopted a regulatory plan allowing local or state authorities to select a franchisee and to regulate in any areas that the FCC does not preempt. Typically, local governments have adopted laws and/or regulations on franchising, basic subscriber rates, theft of service, taxation, and pole attachment. The commission preempts local regulation of signal carriage, pay cable and technical quality. However, in the enforcement of technical standards, the FCC may authorize local arrangements in some cases.

In 1972 the commission adopted minimum standards for franchises issued by local governments. These standards related to the process of selecting a franchisee, franchise duration and fees, the establishment of construction timetables, and procedures for regulating rates and for handling subscriber complaints. In 1976 the commission deleted the franchise standard regarding local-rate regulation procedures and, effective November 15, 1977, amended the remaining franchise standards (Docket 21002). The standards, which had been mandatory, were maintained on a voluntary or guideline basis, with the exception of the franchise fee limit.

The commission's franchise standards retain the following nonmandatory recommendations or provisions that local governments might include in the ranchise or as part of the franchising process.

(1) The franchising authority should approve a franchisee's qualifications only after a full public proceeding affording due process;

(2) Neither the initial franchise period nor the renewal period should exceed 15 years and any renewal should be granted only after a public proceeding affording due process;

(3) The franchise should accomplish significant construction within one year after registering with the Commission and make service available to a substantial portion of the franchise area each following year, as determined by the franchise authority;

(4) A franchise policy requiring less than complete wiring of the franchise area should be adopted only after a full public proceeding, preceded by specific notice of such policy; and

(5) The franchise should specify that the franchisee and franchisor have adopted local procedures for investigating and resolving complaints.

The standards also suggest that the franchise require the franchisee to maintain a locl business office or agent for handling complaints and that it specify that procedures have been adopted for investigating and resolving complaints and that each new subscriber will be given notice of these procedures. The standards also recommend that the franchise designate, by title, the franchising authority office or official responsible for continuing administration of the franchise and implementation of complaint procedures.

The only mandatory franchise standard in the FCC's rules limits a franchise fee, the amount the system operator plays annually to the local franchising authority, to no more than 3 percent of the franchisee's gross revenues per year from all cable services in the community. The commission may approve a fee in the range of 3 to 5 percent if the franchisee shows that it will not interfere with federal regulatory goals and if the franchising authority justifies the entire fee as appropriate in light of the planned local regulatory program.

As a result of revisions in Docket 21002, franchising authorities may assess a fee on all cable revenues, rather than excluding those revenues derived from pay cable and other extra services. If the system community unit was franchised or began operating before March 31, 1972, however, a "grandfathered" fee may be collected until either 15 years from the initial grant of the franchise or the end of the current franchise period, which ever occurs first.

Most systems charge a monthly fee for "basic" cable television service and separate fees for each of the subscription-supported (pay) cable networks. The FCC has preempted local regulation of pay television, but local government may (and most do) regulate basic fees.

The 1972 carriage rules set up standards of television signal carriage which vary with market size. The determining factor is whether a community is located wholly or partially within a 35-mile radius called the specified zone of a commercial TV station licensed to a major or smaller television market, as defined in the commission's cable television rules.

A few years after the FCC adopted the 1972 cable rules, it began deleting some ad changing in order to ease the regulatory burden on the cable industry.

In June 1977 the commission began an inquiry into

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the economic relationship between television broadcasting and cable television (Docket 21284). In April 1979, on the basis of its economic inquiry *Report* which concluded that elimination of the distant signal carriage restrictions would benefits consumers without harming the ability of broadcast stations to meet their public interest responsibilities, the commission issued a notice of proposed rulemaking to delete these rules. In July 1980 the commission adopted the recommendations in *Report and Order in Dockets 21284 and 20988*, 79 FCC 2d 652 (1980). The rule changes became effective July 7, 1981, following affirmation of the commission's decision by the U.S. Court of Appeals for the Second Circuit in *Malrite T.V. of New York, Inc. et al. v. FCC and USA*, 652 F. 2d 1140 (2nd Cir. 1981). *cert denied*, 50 U.S.L.W. 3547 (1982).

In November 1976, the commission began an inquiry (Docket 20988) to reevaluate the syndicated exclusivity rules by examining the following options: deletion of the rules; expansion of their applicability to smaller markets; revision of criteria; or retention of the present rules. In April 1979, the commission adopted a *Report* on the syndicated exclusivity rules and issued a *Notice of Proposed Rulemaking in Dockets 20988 and 21284* in which it proposed to delete the rules. In July 22, 1980, the commission decided to delete the syndicated program exclusivity rules in thier entirety. These rule changes became effective ion July 7, 1981, following affirmation of the commission's decision by the U.S. Court of Appeals for the Second Circuit in *Malrite T.V. of New York, Inc. et al. v. FCC and USA*, 652 F. 2d 1140 (2nd Cir. 1981), *cert. denied*, 50 U.S.L.W. 3547 (1982).

Of the remaining cable rules perhaps the most important are the "must carry" rules. In communities located outside of all markets, cable systems must carry signals from the following sources: all stations within whose Grade B signal contour the system community is located; commercial translator stations with 100 watts or higher power and noncommercial translators with 5 watts or higher power serving the community; stations whose signals are significantly viewed in the community; all educational stations licensed to communities within 35 miles of the system community.

The signal carriage rules do not require a cable operator to carry the subscription, or scrambled programing portion of a subscription television station (STV). If the station qualified for mandatory carriage, however, the cable operator would be obliged to carry, on requests, the unscrambled portion of the signal.

The commission first adopted access rules in 1972, requiring systems in the top-100 television markets to provide four dedicated channels for access (one each for public, educational, governmental, and leased access). In 1969 the commission had adopted a requirement that cable systems also originate programing but stayed this rule in 1971. In 1974 the commission deleted the origination requirement, and in 1976 it revised the access rules. The revised rules, required that all systems with 3,500 or more subscribers, regardless of market, provide up to four access channels only if they had sufficient activated channel capability to do so and if there were a demand for full-time use of the channels. Otherwise, they were required to provide at least one composite, or combined access, channel. Provisions regarding equipment availability, charges for channel use, and local operating rules were also contained in the former FCC rules.

As a result of a U.S. Supreme Court decision on April 2, 1979, the FCC no longer requires any cable television operator to provide channels or equipment for public, educational, governmental or leased access use nor to provide a certain channel capacity. In its decision in *FCC v. Midwest Video Corp.*, 440 U.S. 689 (1979), the Court held that the access requirements exceeded the FCC's jurisdiction because they imposed common-carrier obligations on cable operators.

As a result of another court decision, in *NARUC v. FCC*, 533 F. 2d 601 (D.C.) Cir. 1976), the FCC no longer regulates intrastate two-way, point-to-point nonvideo cable transmissions. State and local authorities, therefore, may regulate cable transmissions of data and other nonvideo programming.

Although the rules do not require cable operators to originate programing nor to provide access channels. Operators who originate programing, however, are required to comply with the FCC's rules on cablecasts by candidates for public office, the Fairness Doctrine, lotteries, and sponsorship identification.

The rules also prohibit a cable operator from using origination channels to cablecast obscene or indecent material. The restriction, however, applies only to programing subject to the exclusive control of the cable operator. Although programing of cable networks is "originated," cable operators usually cannot easily exert editorial control over its content. Furthermore, the preemption of regulation of pay cable fees prevents the imposition of local sanctions on such channels. On the other hand, requirements regarding access channels are often the subject of franchise agreements and local regulation. No federal rules relate to access channels.

Cable operators frequently identify access and origination channels by single or double letters or by some other method to avoid confusion with broadcast stations' call letters. In a policy statement issued October 8, 1976, on problems that could arise from the method or lack of identification of cablecast channels, the FCC recommended that cable operators do not use broadcast call letters for such purpose.

Cable systems frequently offer pay cable services, on a per-program or per channel basis, to supplement the basic retransmission service. Included are feature films, sports events or regional or national interests, and entertainment programs specifically produced for the cable audience.

Two recent Federal Circuit decisions involved the FCC's jurisdiction to regulate pay cable. *In Home Box Office Inv. v. FCC*, 567 F. 2d 9, *cert. denied*, 434 U.S. 829 (D.C. Cir. 1977), the court overturned the FCC's pay cable program content rules because of failure to demonstrate a genuine problem which required regulation. The FCC does not now regulate pay cable program content.

In *Brookhaven Cable TV Inc. v. Kelly*, 573 F. 2d 765 (2d Cir. 1978), *cert. denied*. 99 S. Ct. 1991 (1979), the court affirmed a lower court finding that FCC preemption of pay cable rates precluded the New York State Commission on Cable Television from regulating such rates. The court found that FCC preemption in this area was clearly asserted and within its jurisdiction.

All operators of cable systems serving 1,000 or more subscribers must have a current copy of the commission's cable television rules. In addition, the operators must maintain locally for public inspection a copy of the franchise, application(s) to the FCC including any petitions for special relief or show cuase, FCC annual reports and related documents, and any application for transfer of control of a cable television relay station that may serve the system.

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There are 6,600 operating cable systems in the U.S., serving some 18,500 communities. Another 1,600 franchises are approved but not built. Texas has the most systems (500) and California the most subscribers (3.2 million). Operating systems currently reach about 37.3 million subscribers, perhaps over 104 million people—43.7% of the nation's TV households. The largest (Cox Cable in San Diego has about 235,00 subscribers. Some have fewer than 100. Tele-Comunications Inc. is the largest multiple system operator (MSO), with more than 2,700,000 subscribers. Industry revenues last year totaled approximately $3.6 billion. Most systems offer 12 channels. Systems constructed after March 1972 must have a minimum 20-channel capacity. The average monthly fee (basic service) is $9. Costs of laying cable range from $10,000 per mile in rural areas to $20,000 in urban areas and up to $100,000 where underground cable is required. An estimated 3,700 systems originate programing in their own studios, the average for 23 hours weekly. Equipment costs are as low as $30,000 for a small black and white operation and $200,000 for a color studio. Over 990 systems (15% of all systems) accept advertising on their local origination channels (excluding automated channels), with rates from $2 to $250 per 30-second spot. Most cable systems derive less than 5% of their gross revenues from advertising. Pay cable is on approximately 5,400 systems and reaches 31 million subscribers in 50 states. Most pay cable operators are reporting close to 60% penetration of their subscriber count. Home Box Office Inc. initiated the first national satellite interconnected pay network Sept. 30, 1975, using transponder time leased on the Satcom satellite. Aside from contracting for packaged pay programs, like HBO, cable operators can lease a channel to a pay program operator or secure their own programing directly from a supplier. Almost 32% of all cable sysems have ties with broadcast interests, over 20% with program producers and approximately 18% with newspapers. Many systems have multiple cross-ownership ties.

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Furthermore, all operators must maintain in the public inspection file certain records for specific periods of time. Records required on equal employment opportunity and annual performance tests must be retained for five years. Records of origination cablecasts by candidates for public office and lists identifying sponsors of originated programing must be maintained for two years. Records required on network program nonduplication private agreements must be maintained for the run of the contract. These documents must be maintained on file either at the system's local office or another accessible place in the community. Operators of systems serving fewer than 1,000 subscribers are not required to provide nonduplication protection or to conduct performance tests.

All systems of all sizes must retain for three years all records of subscribers served during the last month of each quarter of operation. This record does not have to be included in the public inspection file, but it must be made available upon request by an authorized commission representative.

Nondiscrimination rules were adopted shortly following the 1972 *Report and Order* and have remained largely unchanged, although in 1978 the commission restructured the regulations to improve their readability and adopted some minor revisions (Docket 20829). All operators of cable systems and cable relay stations are required to afford equal opportunity in employment to all qualified persons and are prohibited from discrimination in employment because of race, color, religion, national origin, or sex.

The rules require all cable operators and CARS licensees to establish and maintain programs designed to assure equal opportunity for females, Blacks, Hispanics, American Indians or Alaskan Natives, and Asians or Pacific Islanders in recruitment, selection, training, placement, promotion, pay, working conditions, demotion, layoff, and termination.

In addition, if systems have five or more fulltime employees, they must keep on file with the commission and up-tp-date statement of their equal opportunity program and file any changes to existing progrmas on or before May 31 of each year.

The commission sends computer printed forms on the following subjects and asks for verification of their accuracy: (1) Schedules 1 and 2 of Form 325 (annual report of cable systems); (2) Form 326 (annual financial report), Schedule 1 of which is preprinted; and (3) Form 395A (annual employment report).

Whenever a change occurs in a system's mail address, operator legal name, or operational status, e.g., it obtains 50 or 1,000 subscribers, the operator must notify the commission of the change within 30 days.

The commission prohibits cable system ownership by telephone companies within their local exchange areas, by television stations within the smae local service area (Grade B contour) and by national television networks anywhere in the country.

The ban on telephone company ownership was designed to deter anti-competitive and discriminatory practices that evolved from the local telephone company's monopoly position in the community and its ownership of utility poles, which usually carry the distribution cables. This rules does not prevent telephone companies from owning cable systems outside their local exchange area or from providing cable facilities (channel distribution service) on a lease or tariff basis for use by an unaffiliated system. In January 1980 the commission instituted a policy of reviewing waiver requests from telephone companies proposing to provide cable television service in areas with a density of fewer than 30 homes per mile (CC Docket 78-219). The purpose of the policy is to encourage the development of cable service in rural areas. More recently the commission supplemented this policy by adopting a waiver standard which exempted rural areas (i.e., places of less than 3,500 inhabitants) from the telephone-cable cross-ownership restrictions (CC Docket 80-767; effective December 4, 1981).

The FCC's rule prohibiting certain types of television-cable cross-ownerships takes into account the growing role of cable systems as program originators and is designed to ensure vigorous competition among the media and to obtain for the public the greatest possible diversity of control over local mass communications media. In its proceeding in Docket 20423, in 1975 the commission amended its rule to require divestiture only in situations it identified as egregious. In June 1980, in a further notice of rulemaking in the same proceeding, the commission has proposed to require divestiture of all cross-ownerships.

As part of its continuing concern with patterns of media ownership, the commission investigated whether cable system ownership by radio stations and local daily newspapers should be prohibited. An additional question was whether there should be an upper limit on the number of cable systems owned by a single entity nationally or on a regional basis. The commission concluded that no rules limiting cable-radio or cable-mewspaper cross-ownership were required at present, but it continues to study these issues (Docket 18891).

In October 1980 the commission requested a staff study of the broad range of ownership issues. The economic study, conducted by the commission's Office of Plans and Policy and released for comment in November 1981, concluded that cable television is a highly flexible, high capacity technology capable or providing a wide range of services and that its market is local and workably competitive. It endorsed a policy of free entry into cable and concluded that consumer preference and entrepreneurial incentives could best determine an industry structure which meets consumer needs. The study recommended deleting all of the broadcast-cable and network-cable cross-ownership rules and retaining the current general ban on telephone-cable cross-ownership. It also recommended against imposing multiple ownership limitations or a separations policy (i.e., separation of ownership and operation of facilities from control of transmission or program content).

To assure the delivery of satisfactory television signals to cable subscribers, the commission requires cable operators to meet certain technical performance requirements. These requirements, however, do not apply to nonbroadcast services (such as access channels), cable TV receivers, "ghosting " and cable carriage of AM and FM programing. In general, the rules require every cable operator to conduct annual performance tests and to use these results to determine whether the system is performing satisfactorily. Systems serving fewer than 1,000 subscribers are subject to the technical standards but are not required to take annual measurements. It should be noted, however, that any systems, regardless of its number of subscribers, which operates in the frequency bands 108-136 and 225-400 mhz must comply with the signal leakage standards of the rules, including annual performance measurements.

The FCC preempts state or local regulation of technical performance requirements to prevent the establishment of nonuniform requirements that might hinder system interconnectability and impede the development and marketing of new cable services and equipment. However, the commission welcomes local assistance in the resolution of subscriber complaints involving technical standards. Waivers may be granted in the area of additional standards only upon a showing of local capability to enforce them.

As a result of the final report of the Cable Technical Advisory Committee (CTAC), the commission modified its technical standards (Docket 20765) to allow systems to make technical performance measurements based on headends rather than communities.

In the same proceeding, the FCC relaxed several standards for signal levels, clarified frequency standards for converters, and relaxed the frequency tolerance for cable carriage of translator signals.

Major current technical standards questions are (1) standards for signal leakage, (2) frequency channelling plans, and (3) standards for cable compatible receivers. Research in progress on the nature of signal leakage must precede frequency channelling decision, which in turn must precede standardization of cable compatible receivers. The problem of signal leakage is being addressed in Docket 21006. *A Final Report of the Advisory Committee on Cable Signal Leakage*, released January 24, 1980, is available through the National Technical Information Service (703/s/487-4650), publication number PB80-119605. This study resulted in a further rulemaking in Docket 21006 proposing new rules to control interference to aeronautical radio services dur to signal leakage from cable television systems using aeronautical radio frequencies.

Any cable system, regardless of its size, which intends to use a Frequency in the band 108-136 mhz or 225-400 mhz above certain power levels, must first notify the commission of its intention and await authorization before using the proposed frequencies which might interfere with the air navigation and communications functions of local aeronautical radio services. The standards used to determine the permissibility of proposed frequency usage are based on geographicl proximity to nearby aeronautical radio stations and the degree of separation between the proposed cable frequencies and those in use by the aeronautical stations.

Cable systems, in addition to providing subscribers with off-the-air signals, also obtain signals, sometimes from hundreds of miles away, through microwave relay stations. Cable TV operators may purchase microwave relay service from companies providing such common carrier services, or they may operate their own relay stations licensed by the FCC as cable television relay service (CARS) stations.

The CARS rules also authorize licensing of mobile remote pickup stations for the transmission of pro-

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graming from the scenes of events outside a studio back to the cable studio or headend. In addition, they provide for the licensing of studio-to-headend link (SHL) stations.

The CARS rules provide that cable system owners or cooperative enterprises are eligible to be CARS licensees. The service is designed to enable a cable system operator to serve his system. However, the rules add that a CARS licensee also may serve nonaffiliated cable systems based on a cost-sharing, nonprofit arrangement. These arrangements permit the delivery of cable programing where the economies might otherwise prevent a small system from using microwave transmission.

The commission on an ad hoc basis has permitted noncable operators, primarily educational institutions, to own and operate CARS stations. It also has permitted CARS licensees to serve translators (Docket 20539).

The advent of satellite-earth station transmission capability adds another dimension to microwave communications. The interface between a receiver only earth station and a CARS network now offers greater flexibility in the distribution of programing to cable systems and a relatively inexpensive means of providing a long-haul transmission capability.

Other Regulatory Matters.

Most systems distribute TV signals through coaxial cable strung on existing poles owned by telephone or electric utility companies. Cable operators also may use their own poles, place their cable underground, or use transmission facilities or rights-of-way owned or controlled by a utility. Some may use combinations of these arrangements.

Sometimes conflicts arise between cable television systems and utility companies over pole attachment issues, particularly the rates for use of utility facilities. The Communications Act Amendments of 1978 (P.L. 95-234, approved February 21, 1978) require the FCC to regulate the rates, terms, and conditions for cable TV pole attachments to insure they are just and reasonable in the absence of state regulation. The law requires states to certify to the commission that it regulates the rates, terms, and conditions for pole attachments and that it has the authority to consider and does consider the interests of cable TV subscribers and utility consumers. Alaska, California, Connecticut, Hawaii, Illinois, Kentucky, Louisiana, Massachusetts, Michigan, Nebraska, Nevada, New Jersey, New York, Ohio, Oregon, Pennsylvania, Puerto Rico, Tennessee, Utah, Vermont, Washington, and Wisconsin have certified to the commission that pole attachment regulation is within their jurisdiction (Public Notice, February 2, 1982).

In the Communications Act Amendments of 1978 the Congress also granted the commission authority to impose monetary forfeitures on cable television systems or CARS licnesees found to be in violation of the FCC rules, terms or conditions of a certificate or license, any commission order, or any provision of the Communications Act.

The FCC may impose forfeitures by issuing either a notice affording an opportunity for hearing or a notice of apparent liability to individuals holding a commission certificate, license, or other authorization. Prior to the commisions's issuing either of such notices to individuals not holding, nor required to hold, an FCC authorization, the following preconditions are necessary: (1) the commission must issue a citation of violation, (2) the commission must provide the opportunity for an interview, and (3) the individual subsequently must engage in the violative conduct described in the citation. The maximum fine imposed on cable system operators for each separate offense is $2,000, the total fine not to exceed $20,000 for each notice of liability or hearing. Each day of a continuing violation is considered a separate offense. In the case of cable television systems, the commission must issue any such notice within one year of the offense.

In 1980 the commission adopted procedural rules to implement the forfeiture law and has delegated certain forfeiture authority to the Cable Television Bureau.

The Act for General Revision of the Copyright Law (Public Law 94-533), Title 17 U.S.C.), effective January 1, 1978, established for the first time an obligation for cable operators to pay copyright fees for the retransmission of broadcast signals. Regulations implementing the law may be obtained from the Copyright Office which administers the law. The Office is part of the Library of Congress.

According to the provision of the law, cable operators must pay a copyright royalty fee for which they receive a compulsory license to retransmit radio and television broadcast signals. The fee for each cable system is based on the system's gross revenues from the carriage of broadcast signals and the number of "distant signal equivalents," a term identifying nonnetwork programing from distant television stations carried by the system.

Every six months, according to the law, cable operators must file a statement of accounts information about system revenues and signal carriage and pay royalties fees. The fees are based on a percentage of gross basic revenues. A cable system must pay .799 percent of revenues for the first distant-signal .503 percent for the second, third and fourth distant-signals, and .237 percent for the fifth and each additional distant-signal. There are exceptions. Systems are required to pay 3.75 percent for each signal added after the FCC's distant-signal and syndicated exclusivity rules were lifted. (The 3.75 percent fee has been challenged by cable operators in federal court and will not go into effect until affirmed by the court.) In addition, systems whose total gross revenues are less than $160,000 for the six-month accounting period pay reduces fees; systems grossing less than $41,000 every six months pay a modest flat fee.

The law also established a Copyright Royalty Tribunal, composed of five commissioners, to distribute the royalty fees and resolve disputes among copyright owners and to review the fee schedule in 1980 and every five years subsequently. The Copyright Tribunal also is responsible for revising the rates whenever the FCC amends its carriage rules in a manner that would allow carriage of additional programing from distant stations. Any revision of rates should reflect changes impacting on the copyright owners' property value. After the FCC dropped the distant-signal and syndicated-exclusivity rules, for instance, the CRT hiked the fees across the board and imposed the 3.75 charge.

The question of whether copyright fees may be added onto subscriber rates in entirely within the purview of local regulatory authorities.

The U.S. Congress has devoted considerable attention to communications matters in recent years and, in particular, cable television policies, but has yet to pass any legislation.

In January 1976, the staff of the Subcommittee on Communications of the Interstate and Foreign Commerce Committee of the House of Representatives prepared a report on cable television entitled *Cable Television: Promise Versus Regulatory Performance.* The Subcommittee subsequently conducted hearings on cable television which eventually led to the decision of several Subcommittee members to undertake a comprehensive review of communications policies in a complete "rewrite" of the Communications Act of 1934. As a result, H.R. 13015, commonly referred to as the "Communications Act rewrite," was introduced in the 95th Congress. A second rewrite bill, H.R. 3333 was introduced in the 96th Congress in March 1979. After holding hearings, the Subcommittee shelved most of the broadcast and cable provisions and redrafted only the common carrier portions. The resulting legislation H.R. 6121 was introduced in December 1979, amended, and voted out of the Interstate and Foreign Commerce Committee (Oct. 8, 1980) and the Judiciary Committee (Aug. 25, 1980).

In the 97th Congress, the renamed Subcommittee on Telecommunications, Consumer Protection and Finance, held hearings in May 1981 on the status of competition and deregulation in the telecommunications industry, in July on cable franchising, and in September on diversity of information sources. Following release of a report in November 1981 entitled *Telecommunications in Transition: The Status of Competition in the Telecommunications Industry.* H.R. 5158 (Telecommunications Act of 1981) was introduced in December 1981. The bill relates primarily to common carrier services, with the exception of extending the existing pole attachment law and codifying the recent FCC decision exempting rural areas from the telephone-cable cross-ownership restrictions.

The Senate Communications Subcommittee also held hearings on cable television (June 1977), and several senators introduced specific legislative amendments S. 611 and 622 (March 2, 1979). Following hearings, these amendments were incorporated into a new comprehensive set of amendments presented to Congress in June 1980 as S. 2827.

This legislation addressed the FCC's regulatory authority on cable television ownership, signal carriage, rates, franchise fees and programing. No hearings were held on S. 2827. On April 17, 1981, several senators introduced S. 898, the Telecommunications Competition and Deregulation Act of 1981, on which hearings were held in June. Although amendments containing cable television provisions were included in the bill as reported out of committee, the majority of these amendments were defeated when the full legislation passed the Senate in October. The remaining cable TV related provisions, similar to H.R. 5158, also codify the new rules on telephone company ownership of cable systems in rural areas and preclude the dominant telephone carrier from providing cable television service. A comprehensive cable television bill, S. 2172 (Cable Telecommunications Act of 1982, introduced March 4), proposed to amend the Communications Act of 1934. Due primarily to opposition from municipalities which feared the loss of its regulatory power over cable, S. 2172 died at the close of the 97th Congress. During the 98th Congress, in June 1983, a revised cable bill, S. 66, based on a compromise between cities and cable interests, was passed by the Senate. A companion House bill (S. 4103) was subsequently introduced.

A wide variety of laws and regulations for cable television exist at the state level. Eleven states regulate cable television on a comprehensive basis through a state agency. In Massachusetts, Minnesota, and New York, these agencies are special commissions established for the sole purpose of cable television regulation. In Alaska, Connecticut, Delaware, New Jersey, Rhode Island, and Vermont, the agencies are state public utility commissions. In Hawaii, regulation of cable television is the responsibility of the Department of Regulatory Agencies. In addition, at least 30 other states have one or more laws specifically applicable to cable television, dealing most commonly with such subjects as franchising, theft of service, pole attachment, rate regulation and taxation.

A cable system operator, broadcaster, or any other person may seek special relief or a waiver of any rule at any time. As a result, the commission may waive an existing rule, or impose different requirements. Requests for declaratory orders, seeking FCC interpretation to clarify a disputed question about the rules, may be treated as a petition for special relief or rulemaking.

A petitioner may submit the request by letter, accompanied by certification that all parties who may be directly affected by any commission action (i.e., interested parties) have been given a copy of the request. In addition to stating the relief requested, the petition should contain the facts demonstrating the need for relief and show how granting the request would serve the public interest. An original and two copies of the petition must be filed with the Secretary of the Commission.

The Complaints and Information Branch of the Compliance Division of the FCC's Cable Television Bureau functions to resolve problems involving cable systems. Its services include (1) attempting to clear up misunderstandings between subscribers or local governments and cable systems on commission rules; (2) dealing with complaints aabout a system's service; and (3) helping local governments to structure complaint procedures.

Under the dual jurisdictional approach excercised by the commission and by local authorities over cable television, several important areas of consumer concern are administered by localities rather than by the FCC. These include subscriber rates and installation fees, inaccurate bills and questionable billing practices, damage to property, illegal taps, extension of cable service to individual homes and busineeses, repairs, improper wiring, and false or misleading advertising concerning the cable system's capabilities. Complaints are urged to make their complaints by letter, directed to local officials responsible for regulation of their cable system.

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Cable TV Systems in the United States and Canada

Key to the Listings

Listed in this directory are all the cable television systems and franchise holders in the United States and Canada. Each is listed under the principal community of service, by state or province.

Shown to the right is a sample listing, with explanation of information keyed to the boldface numbers. This information is as of May 1984.

SAMPLE LISTING

Springfield. (1) Pan-State Cable Inc., Box 100 99999. (800) 555-1000. **(2)** Chester Arthur, mgr; A.G. Bell, chief tech. Atty: Fillmore & Taylor, Washington.
(3) Serves Springfield, Paris bor, Twillham twp. **(4)** Washington county. **(5)** Smaller TV market.
(6) Subscribers: 3,000; homes passed: 4,000; total homes in franchised rea: 15,000. Started 12/68. Length 25 mi. Charges: intal $8; $4.50/mo. Franchise fee 3%.
(7) Channel usage: total ch capacity 27; TV chs 12; pay cable 1; basic cable 2; automated 2; access 4; other originatin programing 1; technically unavailable 2; available unused 3. Allband FM.
(8) □ Pay cable: ch 4 (HBO; 350 subscribers; $9/m0.).
(9) Origination—automated: 2 chs (news, time, weather); **(10)** access: 4 chs (1 leased); **(11)** other: one ch (local origination).
(12) Basic cable: chs (CNN, ESPN).
(13) Adv accepted; annual volume $35,000.
(14) Other services: Two-way capability, burglar alarm.
(15) Ownership: Lunar Cable Co. 60% (see MSO); James Buchanon, pres, 15%; G. Marconi, exec VP, 25% (see Bcstrs in Cable TV).

(1) Name of system, local address, zip code and telephone.
(2) Personnel and attorney.
(3) Area served: Springfield is the principal community; the system also serves nearby Paris borough and Twillham township.
(4) County in which the service area is located.
(5) Type of TV market. According to FCC rules a CATV system is within a TV market if any part of the system falls within 35 miles of a commecial TV city-of-license. There are three locational categories: Top-100 markets; "smaller TV markets," i.e., any community with a commercial TV station not in the top 100; and, third, locations outside all TV markets. Systems outside a market may still be required to offer nonduplication protection if they fall within 55 miles of a city-of-license.
(6) Statistical data: total number of subscribers; homes passed by the system; total homes in he communities served (where this figure is not available, population is given); date the system began; length of plant; cost to the subscriber for installation and monthly service; and fee the community levies on the cable company (usually a percentage of gross revenue). In states with an across-the-board fee, the fee appears under the state heading.
(7) Summary of system, showing number of channels used for each service. Total capacity is that of the distribution system. Pan-State has 27 channels. Twelve are used for TV carriage; one for pay cable (which carries high-quality programing at an additional charge); two for basic cable services, such as CNN or ESPN; two for automated services, such as weather and news data; four for public access programing; three for any other programing originated by the cable system; two are technically unavailable; three are dark but available for future use. The system also supplies allband FM service. (If the system carries selected radio, rather than allband, the number of AM and FM stations is shown.

(8) Pay cable: Where a pay cable system provides pay cable service, a solid square (■) highlights the pertinent information: the channel on which pay programing is carried, the program supplier, total pay subscribers and monthly subscriber cost above that charged for regular cable service. Pay cable program suppliers are: Home Box Office, Showtime, The Movie Channel, Cinemax, The Playboy Channel, HTN Plus, The Disney Channel, Galavision and Bravo.
(9) Automated origination: Two channels are used by system to carry automated news, weather and time.
(10) Access channels: Channels are made available for programing by persons other than the cable operator. Channels are assigned to the general public, educational institutions and local government; Channels may also be leased by private parties. (See directory on page D-341 for newspapers leasing cable channels for electronic publishing.)
(11) Other origination: The sample listing shows that this system has one other origination channel. It is a local originated channel. This type of origination often carries advertising.

(12) Basic cable: The sample listing shows that this system has two basic cable channels. The two channels carry satellite transmitted programing. Basic cable services carry a minimal charge paid by the cable system operator or no charge programing. These services often carry advertising.

Services are: Arts & Entertainment (A&E), Black Entertainment Television (BET), Cable News Network (CNN), Cable News Network Headline News (CNN Headline News), Christian Broadcasting Network (CBN), C-SPAN, Electronic Program Guide (EPG), Entertainment and Sports Programing Network (ESPN), Eternal Word Television Network (Eternal Word), Financial News Network (Fin News), Lifetime, MSN The Information Channel (MSN Info), Music Television (MTV), The Nashville Network (Nashville), National Christian Network (Nat Christian), National Jewish Television (Nat Jewish), Nickelodeon, PTL Television Network (PTL), Satellite Program Network (SPN), National Spanish Television Network (SIN), Trinity Broadcasting Network (Trinity), USA Network (USA), The Weather Channel (Weather Channel), WFMT(FM) Chicago (WFMT), WGN-TV Chicago, WOR-TV New York, WPIX(TV) New York (WPIX), WTBS(TV) Atlanta (WTBS).

(13) System accepts advertising (on local origination or automated channels), with yearly revenue shown.

(14) Other services offered by the system: "Two-way capability" indicates the distribution system is equipped to handle subscriber-to-headend signals. Special radio service (distant imported signals, shortwave, etc.) are also shown.

(15) Ownership: If a multiple system operator (MSO) owns the system in part or in whole, reference is made to the MSO directory which is on page D-318 of this section, listed the particulars for persons and companies with an interest in three or more cable operations. (Canadian MSO's are listed in the following directory.) Attorneys and headquarters addresses and other interests may appear here, rather than under the individual system's listings. If a cable owner has broadcast interests, reference is made to the "Broadcasters in Cable TV" directory which is in Section D on page D-336.

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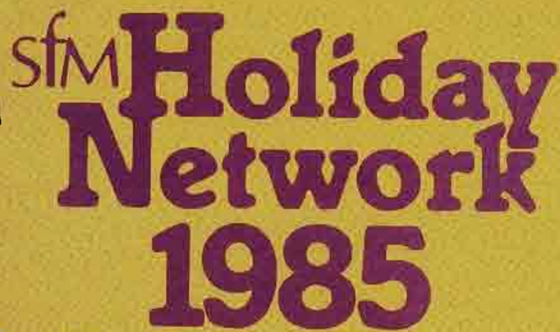

Imitation General
MGM

Brigadoon
MGM

The King's Thief
MGM

Don't Go Near The Water
MGM

The Caine Mutiny
Columbia

From Here To Eternity
Columbia

Glass Bottom Boat
MGM

My Bodyguard
Primetime Entertainment

Jungle Book
SFM/London Films

Horizontal Lieutenant
MGM

Mary and Joseph: A Story of Faith
Lorimar

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