

§ 76.125

specific reference to the licensee's authority to exercise exclusivity rights as to the specific programming against signal carriage by the satellite carrier in question, or by satellite carriage in general in a protected, geographic or specified zone. In the absence of such a specific reference in contracts entered into prior to November 29, 2000, the provisions of these rules may be invoked only if the contract is amended to include the specific language referenced in this section or a specific written acknowledgment is obtained from the party from whom the broadcast exhibition rights were obtained that the existing contract was intended, or should now be construed by agreement of the parties, to include such rights. A general acknowledgment by a supplier of exhibition rights that specific contract language was intended to convey rights under these rules will be accepted with respect to all contracts containing that specific language. Nothing in this section shall be construed as a grant of exclusive rights to a broadcaster where such rights are not agreed to by the parties.

§ 76.125 Indemnification contracts.

No television broadcast station licensee shall enter into any contract to indemnify a satellite carrier for liability resulting from failure to delete programming in accordance with the provisions of this Subpart unless the licensee has a reasonable basis for concluding that such program deletion is not required by this Subpart.

§ 76.127 Satellite sports blackout.

(a) Upon the request of the holder of the broadcast rights to a sports event, or its agent, no satellite carrier shall retransmit to subscribers within the area comprising the specified zone a "nationally distributed superstation" or "network station" carrying the live television broadcast of a sports event if the event is not available live on a television broadcast station meeting the criteria specified in § 76.128. For purposes of this section, if there is no television station licensed to the community in which the sports event is taking place, the applicable specified zone shall be that of the television station licensed to the community with which

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the sports event or team is identified, or, if the event or local team is not identified with any particular community, the nearest community to which a television station is licensed.

(b) Notification of the programming to be deleted pursuant to this Section shall include the following information:

(1) The name and address of the party requesting the program deletion;

(2) The date, time and expected duration of the sports event the television broadcast of which is to be deleted;

(3) The call letters of the nationally distributed superstation or network station(s) from which the deletion is to be made;

(4) The U.S. postal zip codes that encompass the specified zone.

(c) Notifications given pursuant to this section must be received by the satellite carrier:

(1) With respect to regularly scheduled events, within forty-eight (48) hours after the time of the telecast to be deleted is known; or, for events that comprise a season or pre-season period, fifteen (15) days prior to the first event of the season or pre-season, respectively; and no later than the Monday preceding the calendar week (Sunday-Saturday) during which the program deletion is to be made.

(2) As to events not regularly scheduled and revisions of notices previously submitted, within twenty-four (24) hours after the time of the telecast to be deleted is known, but in any event no later than twenty-four (24) hours from the time the subject telecast is to take place.

(d) A satellite carrier is not required to delete a sports event from an individual subscriber who is located outside the specified zone, notwithstanding that the subscriber lives within a zip code provided by the holder of the broadcast rights pursuant to paragraph (b) of this section.

(e) A satellite carrier is not required to delete a sports event if it has fewer than 1,000 subscribers within the relevant specified zone who subscribe to the nationally distributed superstation or network station carrying the sports event for which deletion is requested pursuant to paragraph (b) of this section.

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(f) Notwithstanding paragraph (c) of this section, for sports events to be deleted on or before March 31, 2001, notification must be received by satellite carriers at least 60 full days prior to the day the telecast is to be deleted.

[65 FR 68101, Nov. 14, 2000, as amended at 68 FR 14341, Mar. 25, 2003]

§ 76.128 Application of sports blackout rules.

The cable and satellite sports blackout rules (§§ 76.111 and 76.127) may apply when the sports event is not available live on any of the following television broadcast stations carried by a cable system or other MVPD:

(a) Television broadcast stations within whose specified zone the community of the community unit or the community within which the sporting event is taking place is located, in whole or in part;

(b) For communities in television markets other than major markets as defined in § 76.51, television broadcast stations within whose Grade B contours the community of the community unit or the community within which the sporting event is taking place is located, in whole or in part;

(c) Television broadcast stations licensed to other designated communities which are generally considered to be part of the same television market (Example: Burlington, Vt.-Plattsburgh, N.Y. or Cincinnati, Ohio-Newport, Ky., television markets);

(d) Television broadcast stations that are significantly viewed, pursuant to § 76.54, in the community unit or community within the specified zone.

[65 FR 68101, Nov. 14, 2000, as amended at 67 FR 68951, Nov. 14, 2002]

§ 76.130 Substitutions.

Whenever, pursuant to the requirements of the network program non-duplication, syndicated program exclusivity, or sports blackout rules, a satellite carrier is required to delete a television program from retransmission to satellite subscribers within a zip code area, such satellite carrier may, consistent with this Subpart, substitute a program from any other television broadcast station for which the satellite carrier has obtained the nec-

essary legal rights and permissions, including but not limited to copyright and retransmission consent. Programs substituted pursuant to this section may be carried to their completion.

Subpart G—Cablecasting

§ 76.205 Origination cablecasts by legally qualified candidates for public office; equal opportunities.

(a) *General requirements.* No cable television system is required to permit the use of its facilities by any legally qualified candidate for public office, but if any system shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other candidates for that office to use such facilities. Such system shall have no power of censorship over the material broadcast by any such candidate. Appearance by a legally qualified candidate on any:

(1) Bona fide newscast;

(2) Bona fide news interview;

(3) Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

(4) On-the-spot coverage of bona fide news events (including, but not limited to political conventions and activities incidental thereto) shall not be deemed to be use of a system. (section 315(a) of the Communications Act.)

(b) *Uses.* As used in this section and § 76.206, the term “use” means a candidate appearance (including by voice or picture) that is not exempt under paragraphs 76.205 (a)(1) through (a)(4) of this section.

(c) *Timing of request.* A request for equal opportunities must be submitted to the system within 1 week of the day on which the first prior use giving rise to the right of equal opportunities occurred: Provided, however, That where the person was not a candidate at the time of such first prior use, he or she shall submit his or her request within 1 week of the first subsequent use after he or she has become a legally qualified candidate for the office in question.

(d) *Burden of proof.* A candidate requesting equal opportunities of the system or complaining of noncompliance