

Federal Communications Commission

§ 76.61

(d) A cable operator shall not delete from carriage the signal of a commercial television station during the pendency of any proceeding pursuant to this section.

[58 FR 17361, Apr. 2, 1993, as amended at 64 FR 33796, June 24, 1999; 67 FR 53892, Aug. 22, 2002]

§ 76.60 Compensation for carriage.

A cable operator is prohibited from accepting or requesting monetary payment or other valuable consideration in exchange either for carriage or channel positioning of any broadcast television station carried in fulfillment of the must-carry requirements, except that

(a) Any such station may be required to bear the costs associated with delivering a good quality signal or a baseband video signal to the principal headend of the cable system; or

(b) A cable operator may accept payments from stations which would be considered distant signals under the cable compulsory copyright license, 17 U.S.C. 111, as indemnification for any increased copyright liability resulting from carriage of such signal.

NOTE: A cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the must-carry requirements, through, but not beyond, the date of expiration of an agreement between a cable operator and a local commercial television station entered into prior to June 26, 1990.

(c) A cable operator may accept payments from stations pursuant to a retransmission consent agreement, even if such station will be counted towards the must-carry complement, as long as all other applicable rules are adhered to.

[58 FR 17362, Apr. 2, 1993, as amended at 59 FR 62345, Dec. 5, 1994]

§ 76.61 Disputes concerning carriage.

(a) *Complaints regarding carriage of local commercial television stations.* (1) Whenever a local commercial television station or a qualified low power television station believes that a cable operator has failed to meet its carriage or channel positioning obligations, pursuant to §§ 76.56 and 76.57, such station

shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or position such signal on a particular channel.

(2) The cable operator shall, within 30 days of receipt of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of the must-carry rules. If a refusal for carriage is based on the station's distance from the cable system's principal headend, the operator's response shall include the location of such headend. If a cable operator denies carriage on the basis of the failure of the station to deliver a good quality signal at the cable system's principal headend, the cable operator must provide a list of equipment used to make the measurements, the point of measurement and a list and detailed description of the reception and over-the-air signal processing equipment used, including sketches such as block diagrams and a description of the methodology used for processing the signal at issue, in its response.

(3) A local commercial television station or qualified low power television station that is denied carriage or channel positioning or repositioning in accordance with the must-carry rules by a cable operator may file a complaint with the Commission in accordance with the procedures set forth in § 76.7 of this part. In addition to the requirements of § 76.7 of this part, such complaint shall specifically:

(i) Allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

(ii) Be accompanied by the notice from the complainant to the cable television system operator, and the cable television system operator's response, if any. If no timely response was received, the complaint shall so state.

(iii) Establish the complaint is being filed within the sixty-day deadline