

§ 73.3801

47 CFR Ch. I (10–1–19 Edition)

(v) Termination of the license of a party to the CSA, including reversion of spectrum usage rights to the remaining parties to the CSA.

(2) CSAs must include provisions:

(i) Affirming compliance with the channel sharing requirements in this section and all relevant Commission rules and policies; and

(ii) Requiring that each channel sharing licensee shall retain spectrum usage rights adequate to ensure a sufficient amount of the shared channel capacity to allow it to provide at least one Standard Definition program stream at all times.

(g) *Termination and assignment/transfer of shared channel.* (1) Upon termination of the license of a party to a CSA, the spectrum usage rights covered by that license may revert to the remaining parties to the CSA. Such reversion shall be governed by the terms of the CSA in accordance with paragraph (f)(1)(v) of this section. If upon termination of the license of a party to a CSA only one party to the CSA remains, the remaining licensee may file an application for license to change its status to non-shared.

(2) If the rights under a CSA are transferred or assigned, the assignee or the transferee must comply with the terms of the CSA in accordance with paragraph (f)(1)(iv) of this section. If the transferee or assignee and the licensees of the remaining channel sharing station or stations agree to amend the terms of the existing CSA, the agreement may be amended, subject to Commission approval.

(h) *Notice to MVPDs.* (1) Stations participating in channel sharing agreements must provide notice to MVPDs that:

(i) No longer will be required to carry the station because of the relocation of the station;

(ii) Currently carry and will continue to be obligated to carry a station that will change channels; or

(iii) Will become obligated to carry the station due to a channel sharing relocation.

(2) The notice required by this section must contain the following information:

(i) Date and time of any channel changes;

(ii) The channel occupied by the station before and after implementation of the CSA;

(iii) Modification, if any, to antenna position, location, or power levels;

(iv) Stream identification information; and

(v) Engineering staff contact information.

(3) Should any of the information in paragraph (h)(2) of this section change, an amended notification must be sent.

(4) Sharee stations must provide notice as required by this section at least 90 days prior to terminating operations on the sharee's channel. Sharer stations and sharee stations must provide notice as required by this section at least 90 days prior to initiation of operations on the sharer channel. Should the anticipated date to either cease operations or commence channel sharing operations change, the stations must send a further notice to affected MVPDs informing them of the new anticipated date(s).

(5) Notifications provided to cable systems pursuant to this section must be either mailed to the system's official address of record provided in the cable system's most recent filing in the FCC's Cable Operations and Licensing System (COALS) Form 322, or emailed to the system if the system has provided an email address. For all other MVPDs, the letter must be addressed to the official corporate address registered with their State of incorporation.

[82 FR 18249, Apr. 18, 2017]

**§ 73.3801 Full power television simulcasting during the ATSC 3.0 (Next Gen TV) transition.**

(a) *Simulcasting arrangements.* For purposes of compliance with the simulcasting requirement in paragraph (b) of this section, a full power television station may partner with one or more other full power stations or with one or more Class A, LPTV, or TV translator stations in a simulcasting arrangement for purposes of airing either an ATSC 1.0 or ATSC 3.0 signal on a host station's (*i.e.*, a station whose facilities are being used to transmit programming originated by another

station) facilities. Noncommercial educational television stations may participate in simulcasting arrangements with commercial stations.

(1) A full power television station airing an ATSC 1.0 or ATSC 3.0 signal on the facilities of a Class A host station must comply with the rules governing power levels and interference applicable to Class A stations, and must comply in all other respects with the rules and policies applicable to full power television stations set forth in this part.

(2) A full power television station airing an ATSC 1.0 or ATSC 3.0 signal on the facilities of a low power television or TV translator host station must comply with the rules of part 74 of this chapter governing power levels and interference applicable to low power television or TV translator stations, and must comply in all other respects with the rules and policies applicable to full power television stations set forth in this part.

(3) A full power noncommercial educational television (NCE) station airing an ATSC 1.0 or ATSC 3.0 signal on the facilities of a commercial television host station must comply with the rules applicable to NCE licensees.

(b) *Simulcasting requirement.* A full power television station that chooses to air an ATSC 3.0 signal must simulcast the primary video programming stream of that signal in an ATSC 1.0 format. This requirement does not apply to any multicast streams aired on the ATSC 3.0 channel.

(1) The programming aired on the ATSC 1.0 simulcast signal must be “substantially similar” to that aired on the ATSC 3.0 primary video programming stream. For purposes of this section, “substantially similar” means that the programming must be the same except for advertisements, promotions for upcoming programs, and programming features that are based on the enhanced capabilities of ATSC 3.0. These enhanced capabilities include:

(i) Hyper-localized content (e.g., geo-targeted weather, targeted emergency alerts, and hyper-local news);

(ii) Programming features or improvements created for the ATSC 3.0 service (e.g., emergency alert “wake

up” ability and interactive program features);

(iii) Enhanced formats made possible by ATSC 3.0 technology (e.g., 4K or HDR); and

(iv) Personalization of programming performed by the viewer and at the viewer’s discretion. (2) For purposes of paragraph (b)(1) of this section, programming that airs at a different time on the ATSC 1.0 simulcast signal than on the primary video programming stream of the ATSC 3.0 signal is not considered “substantially similar.”

(c) *Coverage requirements for the ATSC 1.0 simulcast signal.* For full power broadcasters that elect temporarily to relocate their ATSC 1.0 signal to the facilities of a host station for purposes of deploying ATSC 3.0 service (and that convert their existing facilities to ATSC 3.0), the ATSC 1.0 simulcast signal must continue to cover the station’s entire community of license (*i.e.*, the station must choose a host from whose transmitter site the Next Gen TV station will continue to meet the community of license signal requirement over its current community of license, as required by § 73.625) and the host station must be assigned to the same Designated Market Area (DMA) as the originating station (*i.e.*, the station whose programming is being transmitted on the host station).

(d) *Coverage requirements for ATSC 3.0 signals.* For full power broadcasters that elect to continue broadcasting in ATSC 1.0 on the station’s existing facilities and transmit an ATSC 3.0 signal on the facilities of a host station, the ATSC 3.0 signal must be established on a host station assigned to the same DMA as the originating station.

(e) *Simulcasting agreements.* (1) Simulcasting agreements must contain provisions outlining each licensee’s rights and responsibilities regarding:

(i) Access to facilities, including whether each licensee will have unrestrained access to the host station’s transmission facilities;

(ii) Allocation of bandwidth within the host station’s channel;

(iii) Operation, maintenance, repair, and modification of facilities, including a list of all relevant equipment, a description of each party’s financial

obligations, and any relevant notice provisions;

(iv) Conditions under which the simulcast agreement may be terminated, assigned or transferred; and

(v) How a guest station's (*i.e.*, a station originating programming that is being transmitted using the facilities of another station) signal may be transitioned off the host station.

(2) Broadcasters must maintain a written copy of any simulcasting agreement and provide it to the Commission upon request.

(f) *Licensing of simulcasting stations and stations converting to ATSC 3.0 operation.* (1) Each station participating in a simulcasting arrangement pursuant to this section shall continue to be licensed and operated separately, have its own call sign, and be separately subject to all applicable Commission obligations, rules, and policies. ATSC 1.0 and ATSC 3.0 signals aired on the facilities of a host station will be licensed as temporary second channels of the originating station. The Commission will include a note on the originating station's license identifying any ATSC 1.0 or ATSC 3.0 signal being aired on the facilities of a host station. The Commission will also include a note on a host station's license identifying any ATSC 1.0 or ATSC 3.0 guest signal(s) being aired on the facilities of the host station.

(2) *Application required.* A full power broadcaster must file an application (FCC Form 2100) with the Commission, and receive Commission approval, before:

(i) Moving its ATSC 1.0 signal to the facilities of a host station, moving that signal from the facilities of an existing host station to the facilities of a different host station, or discontinuing an ATSC 1.0 guest signal;

(ii) Commencing the airing of an ATSC 3.0 signal on the facilities of a host station (that has already converted to ATSC 3.0 operation), moving its ATSC 3.0 signal to the facilities of a different host station, or discontinuing an ATSC 3.0 guest signal; or

(iii) Converting its existing station to transmit an ATSC 3.0 signal or converting the station from ATSC 3.0 back to ATSC 1.0 transmissions.

(3) *Streamlined process.* With respect to any application in paragraph (f)(2) of this section, a full power broadcaster may file only an application for modification of license, provided no other changes are being requested in such application that would require the filing of an application for a construction permit as otherwise required by the rules (*see, e.g.*, § 73.1690).

(4) *Host station.* A host station must first make any necessary changes to its facilities before a guest station may file an application to air a 1.0 or 3.0 signal on such host.

(5) *Expedited processing.* An application filed in accordance with the streamlined process in paragraph (f)(3) of this section will receive expedited processing provided, for stations requesting to air an ATSC 1.0 signal on the facilities of a host station, the station will provide ATSC 1.0 service to at least 95 percent of the predicted population within the noise limited service contour of its original ATSC 1.0 facility.

(6) *Required information.* (i) An application in paragraph (f)(2) of this section must include the following information:

(A) The station serving as the host, if applicable;

(B) The technical facilities of the host station, if applicable;

(C) The DMA of the originating broadcaster's facility and the DMA of the host station, if applicable; and

(D) Any other information deemed necessary by the Commission to process the application.

(ii) If an application in paragraph (f)(2) of this section includes a request to air an ATSC 1.0 signal on the facilities of a host station, the broadcaster must, in addition to the information in paragraph (f)(6)(i), also indicate on the application:

(A) The predicted population within the noise limited service contour served by the station's original ATSC 1.0 signal;

(B) The predicted population within the noise limited service contour served by the station's original ATSC 1.0 signal that will lose the station's ATSC 1.0 service as a result of the simulcasting arrangement, including

identifying areas of service loss by providing a contour overlap map; and

(C) Whether the ATSC 1.0 simulcast signal aired on the host station will serve at least 95 percent of the population in paragraph (f)(6)(ii)(A) of this section.

(iii)(A) If an application in paragraph (f)(2) of this section includes a request to air an ATSC 1.0 signal on the facilities of a host station and does not meet the 95 percent standard in paragraph (f)(6)(ii) of this section, the application must contain, in addition to the information in paragraphs (f)(6)(i) and (ii) of this section, the following information:

(1) Whether there is another possible host station(s) in the market that would result in less service loss to existing viewers and, if so, why the Next Gen TV broadcaster chose to partner with a host station creating a larger service loss;

(2) What steps, if any, the station plans to take to minimize the impact of the service loss (e.g., providing ATSC 3.0 dongles, set-top boxes, or gateway devices to viewers in the loss area); and

(3) The public interest benefits of the simulcasting arrangement and a showing of why the benefit(s) of granting the application would outweigh the harm(s).

(B) These applications will be considered on a case-by-case basis.

(g) *Consumer education for Next Gen TV stations.* (1) Commercial and non-commercial educational stations that relocate their ATSC 1.0 signals (e.g., moving to a host station's facility, subsequently moving to a different host, or returning to its original facility) are required to air daily Public Service Announcements (PSAs) or crawls every day for 30 days prior to the date that the stations will terminate ATSC 1.0 operations on their existing facilities. Stations that transition directly to ATSC 3.0 will be required to air daily PSAs or crawls every day for 30 days prior to the date that the stations will terminate ATSC 1.0 operations.

(2) *PSAs.* Each PSA must be provided in the same language as a majority of the programming carried by the transitioning station and be closed-captioned.

(3) *Crawls.* Each crawl must be provided in the same language as a majority of the programming carried by the transitioning station.

(4) *Content of PSAs or crawls.* For stations relocating their ATSC 1.0 signals or transitioning directly to ATSC 3.0, each PSA or crawl must provide all pertinent information to consumers.

(h) *Notice to MVPDs.* (1) Next Gen TV stations relocating their ATSC 1.0 signals (e.g., moving to a temporary host station's facilities, subsequently moving to a different host, or returning to its original facility) must provide notice to MVPDs that:

(i) No longer will be required to carry the station's ATSC 1.0 signal due to the relocation; or

(ii) Carry and will continue to be obligated to carry the station's ATSC 1.0 signal from the new location.

(2) The notice required by this section must contain the following information:

(i) Date and time of any ATSC 1.0 channel changes;

(ii) The ATSC 1.0 channel occupied by the station before and after commencement of local simulcasting;

(iii) Modification, if any, to antenna position, location, or power levels;

(iv) Stream identification information; and

(v) Engineering staff contact information.

(3) If any of the information in paragraph (h)(2) of this section changes, an amended notification must be sent.

(4)(i) Next Gen TV stations must provide notice as required by this section:

(A) At least 120 days in advance of relocating their ATSC 1.0 signals if the relocation occurs during the post-incentive auction transition period; or

(B) At least 90 days in advance of relocating their ATSC 1.0 signals if the relocation occurs after the post-incentive auction transition period (*see* 47 CFR 27.4).

(ii) If the anticipated date of the ATSC 1.0 signal relocation changes, the station must send a further notice to affected MVPDs informing them of the new anticipated date.

(5) Next Gen TV stations may choose whether to provide notice as required by this section either by a letter notification or electronically via email if the

**§ 73.3999**

relevant MVPD agrees to receive such notices by email. Letter notifications to MVPDs must be sent by certified mail, return receipt requested to the MVPD's address in the FCC's Online Public Inspection File (OPIF), if the MVPD has an online file. For cable systems that do not have an online file, notices must be sent to the cable system's official address of record provided in the system's most recent filing in the FCC's Cable Operations and Licensing System (COALS). For MVPDs with no official address in OPIF or COALS, the letter must be sent to the MVPD's official corporate address registered with their State of incorporation.

[83 FR 3801, Feb. 2, 2018]

**§ 73.3999 Enforcement of 18 U.S.C. 1464 (restrictions on the transmission of obscene and indecent material).**

(a) No licensee of a radio or television broadcast station shall broadcast any material which is obscene.

(b) No licensee of a radio or television broadcast station shall broadcast on any day between 6 a.m. and 10 p.m. any material which is indecent.

[60 FR 44439, Aug. 28, 1995]

**§ 73.4000 Listing of FCC policies.**

The following sections list, solely for the purpose of reference and convenience, certain Policies of the FCC. The present listing of FCC policies and citations thereto should not be relied upon as an all-inclusive list, and the failure to include a policy in this list does not affect its validity. Each section bears the title of one Policy and the citations which will direct the user to the specific document(s) pertaining to that Policy.

[44 FR 36387, June 22, 1979]

**§ 73.4005 Advertising—refusal to sell.**

See 412 U.S. 94 (Supreme Court, 1973).

[44 FR 36388, June 22, 1979]

**47 CFR Ch. I (10–1–19 Edition)**

**§ 73.4015 Applications for AM and FM construction permits, incomplete or defective.**

See Public Notice, FCC 84–366, dated August 2, 1984, 49 FR 47331, December 3, 1984.

[49 FR 50048, Dec. 26, 1984]

**§ 73.4017 Application processing: Commercial FM stations.**

See Report and Order, MM Docket 84–750, FCC 85–125, adopted March 4, 1985. 50 FR 19936, May 13, 1985.

[59 FR 52086, Oct. 14, 1994]

**§ 73.4045 Barter agreements.**

See Order, FCC 72–167, adopted February 16, 1972. 33 FCC 2d 653; 37 FR 4009, February 25, 1972.

[44 FR 36388, June 22, 1979]

**§ 73.4050 Children's TV programs.**

(a) See Report and Policy Statement, Docket 19142, FCC 74–1174, adopted October 24, 1974. 50 FCC 2d 1; 39 FR 39396, November 6, 1974.

(b) See Report and Order; Policy Statement, Docket 19142, FCC 83–609, adopted December 22, 1983. 96 FCC 2d 634; 49 FR 1704, January 13, 1984.

(c) See Report and Order, MM Dockets 90–570 and 83–670, FCC 91–113, adopted April 9, 1991. 6 FCC Rcd 2111; 56 FR 19611, April 19, 1991; Memorandum Opinion and Order, MM Dockets 90–570 and 83–670, FCC 91–248, adopted August 1, 1991. 6 FCC Rcd 5093; 56 FR 42707, August 29, 1991.

[49 FR 14509, Apr. 12, 1984, as amended at 59 FR 52086, Oct. 14, 1994]

**§ 73.4055 Cigarette advertising.**

See 15 U.S.C. 1335.

[44 FR 36388, June 22, 1979]

**§ 73.4060 Citizens agreements.**

(a) See Report and Order, Docket 20495, FCC 75–1359, adopted December 10, 1975. 57 F.C.C. 2d 42; 40 F.R. 49730, December 30, 1975.

(b) See Memorandum Opinion and Order, FCC 78–875, adopted December 21, 1978. 70 F.C.C. 2d 1672.

[44 FR 58720, Oct. 11, 1979]