

materials described above and that reasonable efforts will be used to ensure that live programming does not contain such material.

[61 FR 28708, June 5, 1996, as amended at 61 FR 43176, Aug. 21, 1996]

§ 76.1506 Carriage of television broadcast signals.

(a) The provisions of Subpart D shall apply to open video systems in accordance with the provisions contained in this subpart.

(b) For the purposes of this Subpart S, television stations are significantly viewed when they are viewed in households that do not receive television signals from multichannel video programming distributors as follows:

(1) For a full or partial network station—a share of viewing hours of at least 3 percent (total week hours), and a net weekly circulation of at least 25 percent; and

(2) For an independent station—a share of viewing hours of at least 2 percent (total week hours), and a net weekly circulation of at least 5 percent. See § 76.1506(c).

NOTE TO PARAGRAPH (b): As used in this paragraph, “share of viewing hours” means the total hours that households that do not receive television signals from multichannel video programming distributors viewed the subject station during the week, expressed as a percentage of the total hours these households viewed all stations during the period, and “net weekly circulation” means the number of households that do not receive television signals from multichannel video programming distributors that viewed the station for 5 minutes or more during the entire week, expressed as a percentage of the total households that do not receive television signals from multichannel video programming distributors in the survey area.

(c) *Significantly viewed signals; method to be followed for special showings.* Any provision of § 76.54 that refers to a “cable television community” or “cable community or communities” shall apply to an open video system community or communities. Any provision of § 76.54 that refers to “non-cable television homes” shall apply to households that do not receive television signals from multichannel video programming distributors. Any provision of § 76.54 that refers to a “cable

television system” shall apply to an open video system.

(d) *Definitions applicable to the must-carry rules.* Section 76.55 shall apply to all open video systems in accordance with the provisions contained in this section. Any provision of § 76.55 that refers to a “cable system” shall apply to an open video system. Any provision of § 76.55 that refers to a “cable operator” shall apply to an open video system operator. Any provision of § 76.55 that refers to the “principal headend” of a cable system as defined in § 76.5(pp) shall apply to the equivalent of the principal headend of an open video system. Any provision of § 76.55 that refers to a “franchise area” shall apply to the service area of an open video system. The provisions of § 76.55 that permit cable operators to refuse carriage of signals considered distant signals for copyright purposes shall not apply to open video system operators. If an open video system operator cannot limit its distribution of must-carry signals to the local service area of broadcast stations as used in 17 U.S.C. 111(d), it will be liable for any increase in copyright fees assessed for distant signal carriage under 17 U.S.C. 111.

(e) *Signal carriage obligations.* Any provision of § 76.56 that refers to a “cable television system” or “cable system” shall apply to an open video system. Any provision of § 76.56 that refers to a “cable operator” shall apply to an open video system operator. Section 76.56(d)(2) shall apply to open video systems as follows: An open video system operator shall make available to every subscriber of the open video system all qualified local commercial television stations and all qualified non-commercial educational television stations carried in fulfillment of its carriage obligations under this section.

(f) *Channel positioning.* Open video system operators shall comply with the provisions of § 76.57 to the closest extent possible. Any provision of § 76.57 that refers to a “cable operator” shall apply to an open video system operator. Any provision of § 76.57 that refers to a “cable system” shall apply to an open video system, except the references to “cable system” in § 76.57(d) which shall apply to an open video system operator.

(g) *Notification.* Any provision of §§ 76.1601, 76.1607, 76.1617, or 76.1708(a) (second sentence) that refers to a “cable operator,” “cable system,” or “principal headend” shall apply, respectively, to an open video system operator, to an open video system, or to the equivalent of the principal headend for an open video system.

(h) *Modification of television markets.* Any provision of § 76.59 that refers to a “cable system” shall apply to an open video system. Any provision of § 76.59 that refers to a “cable operator” shall apply to an open video system operator.

(i) *Compensation for carriage.* Any provision of § 76.60 that refers to a “cable operator” shall apply to an open video system operator. Any provision of § 76.60 that refers to a “cable system” shall apply to an open video system. Any provision of § 76.60 that refers to a “principal headend” shall apply to the equivalent of the principal headend for an open video system.

(j) *Disputes concerning carriage.* Any provision of § 76.61 that refers to a “cable operator” shall apply to an open video system operator. Any provision of § 76.61 that refers to a “cable system” shall apply to an open video system. Any provision of § 76.61 that refers to a “principal headend” shall apply to the equivalent of the principal headend for an open video system.

(k) *Manner of carriage.* Any provision of § 76.62 that refers to a “cable operator” shall apply to an open video system operator.

(l) *Retransmission consent.* Section 76.64 shall apply to open video systems in accordance with the provisions contained in this paragraph.

(1) Any provision of § 76.64 that refers to a “cable system” shall apply to an open video system. Any provision of § 76.64 that refers to a “cable operator” shall apply to an open video system operator.

(2) Must-carry/retransmission consent election notifications shall be sent to the open video system operator. An open video system operator shall make all must-carry/retransmission consent election notifications received available to the appropriate programming providers on its system.

(3) Television broadcast stations are required to make the same election for open video systems and cable systems serving the same geographic area, unless the overlapping open video system is unable to deliver appropriate signals in conformance with the broadcast station’s elections for all cable systems serving the same geographic area.

(4) An open video system commencing new operations shall notify all local commercial and noncommercial broadcast stations as required under paragraph (1) of this section on or before the date on which it files with the Commission its Notice of Intent to establish an open video system.

(m) *Exemption from input selector switch rules.* Any provision of § 76.70 that refers to a “cable system” or “cable systems” shall apply to an open video system or open video systems.

(n) *Special relief and must-carry complaint procedures.* The procedures set forth in § 76.7 shall apply to special relief and must-carry complaints relating to open video systems, and not the procedures set forth in § 76.1514 (Dispute resolution). Any provision of § 76.7 that refers to a “cable television system operator” or “cable operator” shall apply to an open video system operator. Any provision of § 76.7 that refers to a “cable television system” shall apply to an open video system. Any provision of § 76.7 that refers to a “system community unit” shall apply to an open video system or that portion of an open video system that operates or will operate within a separate and distinct community or municipal entity (including unincorporated communities within unincorporated areas and including single, discrete unincorporated areas).

[61 FR 28708, June 5, 1996, as amended at 61 FR 43177, Aug. 21, 1996; 79 FR 63562, Oct. 24, 2014; 80 FR 5050, Jan. 30, 2015]

§ 76.1507 Competitive access to satellite cable programming.

(a) Any provision that applies to a cable operator under §§ 76.1000 through 76.1003 shall also apply to an operator of an open video system and its affiliate which provides video programming on its open video system, except as limited by paragraph (a) (1)–(3) of this